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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWBACK, a Senator from the State of Kansas.

### PRAYER

The Chaplain, ADM Barry C. Black, offered the following prayer:

O God of peace, end the civil war that rages in our hearts.

Fill our God-shaped void with Your presence and bid our striving to cease.

Thank You for Your steadfast love and Your redemptive presence among us.

Remind us that each day we make decisions for which we are accountable to You.

Give us wisdom and courage to burn life's brief candle, always aware of Your saving presence.

Use our Senators today as instruments of Your peace.

We pray this in Your strong name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable SAM BROWBACK led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS.)

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 16, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. BROWBACK thereupon assumed the chair as Acting President pro tempore.

### SCHEDULE

Mr. FRIST. Mr. President, this morning we will have a period of morning business for 30 minutes. Following that 30-minute period, the Senate will begin consideration of H.R. 2330, the Burma sanctions legislation.

Under the order from last night, there will be 60 minutes for debate on the Burma bill with a vote on passage to occur later in a series of stacked votes. After that debate, we will resume consideration of the Defense appropriations bill for debate on the Dorgan amendment on war costs, to be followed by debate on the Bingaman amendment on detainees.

The Senate will then conduct a series of three rollcall votes on the two amendments and passage of the Burma bill. These votes are expected to begin shortly after 12 noon today. Additional amendments will be offered over the course of the day, and therefore rollcall votes will continue throughout the day and evening in order to complete action on the Defense appropriations bill.

### RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until the hour of 10 a.m., with the first 15 minutes under the control of the majority leader or his designee, and the next 15 minutes under the control of Senator MIKULSKI or her designee.

### STALLED NOMINATIONS FOR THE SIXTH CIRCUIT

Mr. FRIST. Mr. President, I rise this morning to address a very specific situation—a dire situation—that exists in the administration of justice for the people of Tennessee, Kentucky, Ohio, and Michigan, the States that make up the Sixth Circuit Court of Appeals.

I am joined this morning by other Senators from the Sixth Circuit and, most notably, we are joined on the Senate floor by many Members of the House of Representatives, representing the four States of the Sixth Circuit.

This morning, we will be meeting with Michigan's attorney general, Mike Cox, and several other Michigan leaders. They flew down today to make their case in the Senate, encouraging us to do our job and move forward with the stalled Michigan nominations to the Sixth Circuit Court of Appeals. They will be presenting the Senate leadership with a petition of thousands of Michigan citizens asking the Senate to end this delay on the so-called Michigan four.

This petition corresponds with a concurrent resolution which has been introduced in the Michigan Legislature, also asking the Senate to end the almost 2-year delay on the Michigan nominations.

The people and leaders of Michigan are not just speaking for themselves; they speak for the people from all of the States concerned and affected by this inexcusable delay. That includes the people of Tennessee, Kentucky, as well as Ohio.

That is why last week I took the rare, but not unprecedented, action of vowing for discharge of these four stalled nominations from the Judiciary Committee, because the delay of these nominations affects more than the State of Michigan, and the entire Sixth Circuit congressional delegation does have an interest on behalf of the people of the States and districts we represent.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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In response to my discharge motion, my colleague, the senior Senator from Illinois, objected on behalf of the two Senators from Michigan on the basis that the stalled Michigan nominations had not had a hearing.

I thought at the time it was an odd objection given that the Senators from Michigan are the ones who are obstructing such hearings from even being held. Nevertheless, I respectfully considered the objection and studied the record of the Michigan nominations. This morning, I have sent a letter to Senator HATCH, chairman of the Judiciary Committee, along with Senator MCCONNELL, who also signed and wrote this letter with me, asking them to hold hearings on these nominations as soon as possible.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,  
Washington, DC, July 16, 2003.

Hon. ORRIN G. HATCH,  
Chairman, Committee on the Judiciary, U.S.  
Senate, Washington, DC.

DEAR CHAIRMAN HATCH: As leaders of the majority and senators who represent two of the four states that comprise the Sixth Circuit, we are requesting that you hold hearings on the nominations of Judges Henry W. Saad, Susan B. Neilson, David W. McKeague, and Richard A. Griffin to the U.S. Court of Appeals for the Sixth Circuit.

On July 7, 2003, the Majority Leader filed resolutions to discharge the Judiciary Committee from consideration of these nominees. These measures would allow the full Senate to consider their nominations, three of which have been pending for nearly two years (the fourth has been pending more than one year).

We believe that the discharge resolutions are necessary because the Michigan senators have returned negative blue slips in an effort to prevent you from holding hearings on these nominees. Our understanding, however, is that the Michigan senators' objection to these nominees is based not on any substantive concerns about their qualifications, integrity, or temperament. Indeed, these four nominees are held in the highest regard and enjoy solid reputations. Nor is it based on a failure of the White House to properly consult with the Michigan senators. In fact, it appears that the Administration has been extremely solicitous of their views, having engaged in extensive consultation, as that term is properly understood.

Rather, based upon our review of the record of consultation and correspondence, it appears that the Michigan Senators object to consideration of these nominees for purposes unrelated to their personal qualifications. Simply put, they believe that two Clinton nominees from Michigan who were not confirmed should be renominated by President Bush. Because the White House has not taken the extraordinary step of renominating these two Clinton nominees, the Michigan Senators have decided to block all four of Michigan's circuit court nominees (and both of its district court nominees as well).

This is not a valid reason to hold the entire Sixth Circuit hostage and inflict damage and delay on our constituents. This situation is unacceptable and simply cannot continue. The Michigan senators should not be able to

prevent the entire Senate from acting on four outstanding nominees who would fill judicial emergencies on an appellate court that is operating with fully one fourth of its seats vacant.

There are many others, including numerous Michigan public officials, who share this view. Nine members of the Michigan congressional delegation wrote you on February 26, 2003, asking you to provide hearings for the Sixth Circuit nominees from Michigan as soon as reasonably practical. On July 3, 2003, the Michigan Senate introduced a resolution calling for the United States Senate and Michigan's U.S. Senators to act to begin the confirmation hearings on Michigan's Sixth Circuit nominees.

In response to the filing last week of the resolution to discharge the Judiciary Committee from consideration of Judge McKeague's nomination, Senator Durbin stated, "... [T]his nomination for the Sixth Circuit, and the others that will be made by the majority leader, have not had the benefit of any hearing before the Senate Judiciary Committee. I believe that [a] hearing should take place before a lifetime appointment is given to any person to the Circuit Court." We wholeheartedly agree that the Michigan nominees to the Sixth Circuit deserve hearings, and accordingly request that you schedule hearings for Judges Saad, Neilson, McKeague, and Griffin as soon as possible.

On behalf of our constituents, we would appreciate your immediate attention to this most urgent matter.

Sincerely,

WILLIAM FRIST,  
U.S. Senate Majority Leader.  
MITCH MCCONNELL,  
U.S. Senate Majority Whip.

Mr. FRIST. Mr. President, I also ask unanimous consent to have printed in the RECORD two letters from White House Counsel Alberto Gonzales outlining the history of these nominations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,  
Washington, March 28, 2003.

Hon. ORRIN HATCH,  
Chairman, Senate Judiciary Committee,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: Thank you for your letter of March 25, advising the President of a letter you recently received from Senator Levin and Senator Stabenow. As you note, Senators Levin and Stabenow have returned blue slips objecting to all five judicial nominees from Michigan pending before the Committee. The Michigan Senators' letter further suggests that the White House did not engage in adequate consultation with them regarding these nominees. You have asked me to describe the nature and extent of consultation between the White House and the Michigan Senators regarding Richard Griffin, David McKeague, Susan Bieck Neilson, Henry Saad and Thomas Ludington. We are pleased to have the opportunity to explain why we believe there has been appropriate consultation.

Before turning to a chronological review of the record, we believe a general comment is in order. Senators Levin and Stabenow insisted from the outset that President Bush should renominate to the Sixth Circuit two nominees of President Clinton—Helene White and Kathleen McCree Lewis—who had not received hearings or votes. The Senators argued that "elementary fairness . . . necessitates that they be renominated, that hearings be held, and that they be voted up or down by the Senate Judiciary Committee."

See Levin-Stabenow Letter to President Bush (April 3, 2001). In response, we informed the Senators that we were in fact considering Judge White and Ms. McCree Lewis, along with numerous other candidates, for the Sixth Circuit, but that the President would not commit to renominating them for those seats. We explained that it is extraordinarily rare for a President to nominate for the federal bench an individual previously nominated by his predecessor, especially when the predecessor is from another political party; that President Bush was not responsible for the failure of Judge White and Ms. McCree Lewis to attain confirmation; and that numerous individuals appointed by President George H.W. Bush to the federal courts of appeals saw their nominations lapse without Senate action at the end of 1992, and did not have their names resubmitted by President Clinton. As we summarized, "President Bush is entitled to make his own appointments for these vacancies, and he may well prefer candidates other than those previously chosen by President Clinton." See Gonzales Letter to Senators Levin and Stabenow (April 10, 2001).

Following this initial exchange, in which the White House made its position very clear, we moved forward with the process of evaluating candidates for the judicial vacancies in Michigan—including Judge White and Ms. McCree Lewis, who we interviewed—and recommending nominees to the President. Throughout this process, we repeatedly consulted with the Michigan Senators, seeking their input on candidates time and time again, almost literally until the eve of their nominations. At no point did either Senator Levin or Senator Stabenow ever articulate any specific objections to any of the five nominees. Instead, the Michigan Senators consistently responded to our consultations by (1) continuing to ask that President Bush "address" the White and McCree Lewis situations by renominating them, and (2) refusing to provide feedback on our proposed candidates unless and until we gave in to that request.

Specifically, our records show that, prior to the nominations of the five individuals in question, the White House engaged in the following noteworthy consultations with the Michigan Senators.

April 3, 2001. The Michigan Senators write to the President to announce their position: "[E]lementary fairness to [Judge White and Ms. McCree Lewis] . . . necessitates that they be renominated, that hearings be held, and that they be voted up or down by the Senate Judiciary Committee"; and "[n]ominating others in their stead would not only be inconsistent with your stated goal of bipartisanship, it would compound the difficult situation we are now in relative to filling the Michigan judicial vacancies on the Sixth Circuit."

April 10, 2001. I respond in writing as described above—stating that we are considering Judge White and Ms. McCree Lewis, but that President Bush is entitled to make his own appointments for the Michigan vacancies.

May 17, 2001. At a meeting in my office, I provide the Senators with the names of individuals being considered for the Sixth Circuit (including Judges Saad, McKeague, and Griffin) and for the vacancy on the U.S. District Court for the Eastern District of Michigan (including Thomas Ludington). I invite the Senators to provide their feedback on those individuals. Senator Levin, however, states that he will not provide any reactions until "the larger issue" is settled.

May 17, 2001. Following up on my meeting with the Senators, Associate Counsel Brad Berenson calls the Chiefs of Staff of Senators Levin and Stabenow, again providing the

names of the candidates and soliciting the Senators' reaction.

May 23, 2001. Mr. Berenson consults again with Senator Levin's Chief of Staff regarding Judges Griffin, McKeague and Sadd—making clear that no nominations are definite, and again asking for reactions or feedback from the Senator. Mr. Berenson also delivers the same message and invitation by voice mail to Senator Stabenow's Chief of Staff.

June 7, 2001. Mr. Berenson again calls Senator Stabenow's Chief of Staff seeking the Senator's reaction to the potential judicial nominees. The Chief of Staff reports that Senator Stabenow does not know any of the individuals in question and again urges that no action should be taken on them until the White/McCree Lewis situation is addressed.

June 15, 2001. Mr. Berenson again calls Senator Stabenow's chief of Staff—once again seeking the Senator's reaction to the potential judicial nominees, and notifying the Senator that Susan Bieke Neilson is under consideration for the Sixth Circuit. Mr. Berenson also calls Senator Levin's Chief of Staff to deliver the same message, but is told that the Chief of Staff can not talk until the following Monday.

June 21, 2001. After leaving several telephone messages, Mr. Berenson succeeds in contacting Senator Levin's Chief of Staff. Again, he seeks the Senator's reaction to the potential judicial nominees we had identified on May 17; he also gives notice that Susan Bieke Neilson is under consideration for the Sixth Circuit.

July 9, 2001. Mr. Berenson speaks by phone with Senator Levin's Chief of Staff regarding Judge Neilson. Mr. Berenson leaves a voice mail message about Judge Neilson for Senator Stabenow's Chief of Staff.

August 8, 2001. Mr. Berenson places phone calls to both Senators' Chiefs of Staff. Both are on vacation, so Mr. Berenson leaves messages regarding Judge Ludington.

August 10, 2001. Senator Levin's Chief of Staff writes to Mr. Berenson reiterating Senator Levin's original position.

August 14, 2001. Mr. Berenson responds to Senator Levin's Chief of Staff, explaining that "although we gave careful consideration to the matter, including interviews of both women, the President does not intend to nominate both these women to the Sixth Circuit." Mr. Berenson's letter further notes that "[w]e have . . . continued to keep the Senator fully informed at every stage of our deliberations, providing the names of individuals the President is considering for appointment and repeatedly soliciting the Senator's views," and advises that "we would prefer to have the Senator's input before the President makes nominations."

August 17, 2001. I send a letter to then-Chairman Leahy (with copies to the Michigan Senators as well as to you), once again clearly setting out the White House's position. I write that "I have met with Senators Levin and Stabenow and have listened carefully to their concerns regarding the history of nominations from Michigan to the Sixth Circuit. Although I understand their desire to have the President renominate two of President Clinton's candidates for the Court of Appeals . . . we believe it would be unfair to expect the President to do so. The net result of our discussions is an apparent stand-off in which the two Michigan Senators are attempting (inappropriately, in my view) to use the threat of negative blue slips against President Bush's Michigan circuit nominees to compel the President to renominate Clinton nominees based upon grievances in which president Bush played no part." I also reiterate that "[w]e remain committed to consulting closely with home-state Senators to identify judicial candidates the President may nominate with the support of the Sen-

ators; however, meaningful, good faith consultation by the Senators cannot, in my judgment, include a demand that President Bush select as nominees those individuals previously selected by the prior Administration."

August 22, 2001. Senator Levin's Chief of Staff writes to Mr. Berenson, proposing a bipartisan commission for judicial nominations in Michigan.

August 23, 2001. Mr. Berenson responds, explaining that the White House is not willing to consider a commission in Michigan at this time. Mr. Berenson elaborates: "Commissions exist or are under consideration in only two or three states in which history or other special circumstances clearly justify such an unorthodox mechanism. None of these circumstances exists in Michigan."

October 9, 2001. I meet with the Michigan Senators at Senator Levin's office to discuss potential solutions to the Sixth Circuit impasse.

October 31, 2001. I speak with Senator Levin to explain why the Michigan Senators' commission proposal is not acceptable, and to inform the Senator of the president's intent to make nominations to the Sixth Circuit seats shortly.

November 1, 2001. Senators Levin and Stabenow write to urge me "to reconsider [their] proposal to jointly establish a bipartisan judicial nominating commission for the existing Michigan vacancies on the Sixth Circuit Court of Appeals." Again, they do not provide any comments on Judges Griffin, McKeague, Neilson, Saad or Ludington—and they indicate that "we could not, in good conscience, return blue slips on Sixth Circuit nominees until the unfair treatment of the nominations of [Judge White and Ms. McCree Lewis] is addressed."

November 2, 2001. I respond to the Michigan Senators, respectfully declining to reconsider our decision not to establish a judicial nominating commission, and reiterating that we had proposed an appropriate solution to the Michigan situation. My letter also gives fair warning that "the President will soon make nominations to all of the existing federal judicial vacancies in Michigan," and invites the Michigan Senators to reconsider their position.

Following these extensive consultations by the White House, the President nominated Judges McKeague, Saad and Neilson on November 8, 2001.

Still, our consultations as to the remaining vacancies continued even after this point. I met with the Michigan Senators on December 19, 2001, and again on February 7, 2002, to discuss solutions to the Michigan situation, and I called them on June 20 and 24, 2002. Seeing no prospect of resolution, the President nominated Judge Griffin to the Sixth Circuit on June 26, 2002. Judge Ludington was nominated later that year, on September 12.

In short, we engaged in repeated pre-nomination consultations with the Michigan Senators regarding these five nominees, making every reasonable effort to get the Senators' feedback. We interviewed the candidates suggested by the Senators—Judge White and Ms. McCree Lewis. And we proposed our own reasonable solution to the matter. Notwithstanding these extensive efforts by the White House, the Michigan Senators steadfastly refused to provide feedback on the nominees, instead insisting that the President should first agree to nominate President Clinton's candidates and/or to turn the process over to a commission. After several months, with no sign of progress, and having received no specific objections to any of the individuals in question, the President proceeded with his nominations, to address the acknowledged judicial emergencies on the Sixth Circuit.

These emergencies continue to this day, and affect not only the constituents of Senators Levin and Stabenow, but also the citizens of Kentucky, Ohio and Tennessee.

I believe that any reasonable observer would agree that the record described above demonstrates that the White House engaged in appropriate consultations with respect to the five Michigan judicial nominees.

I trust that this letter provides the information you need regarding our extensive consultation with the Michigan Senators. However, I would be pleased to provide additional details if necessary.

Sincerely,

ALBERTO R. GONZALES,  
*Counsel to the President.*

THE WHITE HOUSE,  
*Washington, April 2, 2003.*

Hon. CARL LEVIN,  
*U.S. Senate,*  
*Washington, DC.*

Hon. DEBBIE A. STABENOW,  
*U.S. Senate,*  
*Washington, DC.*

DEAR SENATORS LEVIN AND STABENOW: I respectfully write with regard to your March 19 joint letter to Chairman Hatch, which accompanied your return of blue slips indicating your opposition to a hearing and vote for five pending Michigan nominees for federal judicial seats. Your letter explains that you are objecting to these Michigan nominees—and will continue to object to future Michigan nominees—in order to protest the fact that two of President Clinton's judicial nominees from Michigan did not receive hearings.

Although you have returned negative blue slips for all of these nominations, you do not indicate any opposition based upon qualifications to any of the five individuals in question. Nor did you express any such specific opposition during our pre-nomination consultations with your offices regarding these individuals. (This consultation history is described more fully in the attached response to any inquiry from Chairman Hatch.) In our judgment, all five nominees are indeed well qualified to serve on the federal bench, and deserve prompt hearings and votes. I will briefly review their qualifications below, before turning to your complaints regarding President Clinton's nominees and, finally, addressing your blue slips.

#### I. THE NOMINEES

David McKeague, Susan Bieke Neilson, Henry Saad, Richard Griffin and Thomas Ludington are well qualified for the judicial seats for which they have been nominated.

Judge McKeague has served on the U.S. District Court for the Western District of Michigan since 1991, when he was unanimously confirmed by the then-Democrat-controlled Senate. During his tenure as a district judge, he has on seven occasions been designated to sit on a panel of the Sixth Circuit. Chief Justice Rehnquist appointed Judge McKeague to serve on the Judicial Conference's Committee on Defender Services, where Judge McKeague chairs the funding subcommittee. The Chief Justice also appointed Judge McKeague to the District Judges Education Committee of the Federal Judicial Center, which Judge McKeague chairs. The American Bar Association ("ABA") has given Judge McKeague, a "Well Qualified" rating for the Sixth Circuit.

Judge Neilson has served on the 3rd Judicial Circuit Court of Michigan since 1991. She has written numerous articles and was co-editor and author of Michigan Civil Procedure, a two-volume treatise on all areas of Michigan civil practice. This treatise was selected by the Michigan Judicial Institute for purchase on behalf of every trial judge in the

State of Michigan and received the "Plain English Award" from the State Bar of Michigan. The ABA has unanimously rated Judge Neilson "Well-Qualified" for the Sixth Circuit.

Judge Saad has served on the Michigan Court of Appeals since 1994. During his 1996 retention election, he received broad bipartisan support, including endorsements from the Michigan Chamber of Commerce and the United Auto Workers. Judge Saad is also active in the community. He has served as President of the Wayne State University Law School Alumni Association, Chairman of the Board of the Oakland Community College Foundation, and as a Board Member on the National Conference of Christians and Jews. In 1995, he received the Arab-American and Chaldean Council Civic and Humanitarian Award for Outstanding Dedication to Serving the Community with Compassion and Understanding. The ABA has given Judge Saad a "Qualified" rating. It also bears noting that Judge Saad was nominated to the Eastern District of Michigan by President George H.W. Bush a decade ago, but did not receive a hearing.

Judge Griffin has served on the Michigan Court of Appeals since 1989. He has served the bench and bar in a number of volunteer capacities. He is a former member of the federal judicial selection committee for the Western District of Michigan, and currently serves as Chairman of the Quality Review Committee for the Michigan Court of Appeals. The ABA has rated Judge Griffin "Well Qualified" to serve on the Sixth Circuit.

In sum, all four of the President's Sixth Circuit nominees from Michigan have extensive experience on the state or federal benches; all are active in their communities and in the bar; all have extensive support in Michigan; and all have received Well Qualified or Qualified ratings from the ABA. We respectfully submit that by any traditional standard, Judges McKeague, Neilson, Saad and Griffin are superbly qualified candidates for the vacant seats on the Sixth Circuit—seats that have been designated "judicial emergencies" by the Judicial Conference.

Thomas Ludington is likewise fully qualified for the district court. He has considerable experience on the state bench—having served as Chief Judge of the 42nd Circuit Court in Michigan since 1995—and enjoys wide support within the State. And he too has received a unanimous "Well Qualified" rating from the ABA.

## II. THE BASIS OF YOUR OBJECTIONS

In explaining your negative blue slips, you note that two of President Clinton's Michigan nominees to the Sixth Circuit, Judge Helene White and Kathleen McCree Lewis, did not receive hearings or votes.

We understand your position. President Bush has explained that too many nominees of both President Bill Clinton and President George H.W. Bush did not receive timely hearings and votes. For example, two of President George H.W. Bush's Sixth Circuit nominees—John Smietanka and Justin Wilson—and his nominee to the Eastern District of Michigan, Judge Saad, did not receive hearings or votes in the then-Democrat-controlled Senate a decade ago.

President Bush has called on both parties to move on from the cycle of blame and retribution that has plagued the Senate for more than a decade. Since the 2000 campaign, the President has emphasized that every judicial nominee should receive a committee hearing and up or down floor vote within a reasonable time, no matter who is President or which party controls the Senate. On October 30, 2002, after nearly two additional years of Senate delays, the President advanced a

plan involving all three Branches that would require, among other steps, the Senate to vote on nominees within 180 days of nomination. The plan would ensure a generous period of time for all Senators to gather information and have their voices heard and votes counted. Whether the nominee is John Smietanka or Helene White or Susan Bieke Neilson, whether the President is President Clinton or President Bush, whether the Senate is Republican- or Democrat-controlled, the President believes that the procedures for fair and timely Senate consideration and votes on judicial nominations should be the same.

## III. THE SIGNIFICANCE OF THE BLUE SLIPS

Against this backdrop, let me turn to your blue slips.

It has been my understanding that the blue slip is not a veto, but rather a device to ensure adequate pre-nomination consultation with home-state Senators, such as has occurred in the cases of these five nominees. We understand this to have been the consistent Senate policy for at least the last 25 years—during the Chairmanships of Senators Kennedy, Thurmond, Biden and Hatch. And in recent weeks, several other Democratic Senators (including former Chairman Leahy) have argued that Jorge Rangel and Enrique Moreno, nominees of President Clinton to the Fifth Circuit, should have received hearings and votes notwithstanding what the Committee deemed to be inadequate consultation with home-state Senators—thereby implicitly embracing the view that home-State Senators should not be allowed to veto a nominee.

We agree strongly with the bipartisan policy maintained by Senators Kennedy, Thurmond, Biden, and Hatch as Chairs of the Judiciary Committee. We respectfully agree that the tradition of consultation does not and should not entail a veto for home-state Senators, particularly a veto wielded for ideological or political purposes. Rather, the intention of the Constitution and the tradition of the Senate require, in our judgment, that the full Senate hold on up or down vote on each judicial nominee. If the objections of home-state Senators to a nominee are persuasive, those objections either will deter the President from submitting the nomination in the first instance or, alternatively, will convince a majority of the Senate that the nomination should be rejected. As Senator Kennedy stated in 1981, however, the Senate has not allowed and should not allow "individual Senators [to] ban, prohibit, or bar" consideration of a nominee.

Once again I respectfully suggest that all Senators should have their voices heard and their votes counted on the nominations of Judges McKeague, Neilson, Saad, Griffin, and Ludington—five individuals well qualified to serve on the federal bench.

I remain hopeful that we can work together to fill these judicial emergencies and I remain ready to meet to explore options.

Sincerely,

ALBERTO R. GONZALES,  
*Counsel to the President.*

Mr. FRIST. After looking at the record, I have reached the conclusion that the objection to these nominees having hearings is based not on any substantive concerns about their qualifications, or their temperament, or about their integrity. Indeed, these four nominees are held in the highest regard and enjoy solid reputations. Nor is it based on a failure of the White House to properly consult with the Michigan Senators. In fact, it appears that the administration has been ex-

tremely solicitous of their views, having engaged in extensive and good-faith consultation, as that term is properly understood.

Rather, based upon review of the record of consultation and correspondence, it appears that the Michigan Senators object to the consideration of these nominees for purposes totally unrelated to their personal qualifications. Simply put, they believe that two Clinton nominees from Michigan who were not confirmed should be renominated by President Bush. Because the White House has not taken this extraordinary step of renominating two of former President Clinton's nominees, the Michigan Senators have decided to block, to obstruct, all four of Michigan's circuit court nominees. I might add, they are blocking the district court nominees as well.

I believe the reason it is important for us to shed light on this issue is—and I am sure the American people and my colleagues will agree—that this is not a valid reason to hold the people of the entire Sixth Circuit Court hostage and inflict damage and delay on our constituents.

The situation is simply unacceptable and cannot continue. The Michigan Senators, I believe, should not be able to prevent the entire Senate from acting on four outstanding nominees who would fill what we all know are officially classified as judicial emergencies on the appellate court that is operating with fully one-fourth of its seats vacant right now. These are judicial emergencies.

I should note that one of these nominees, Judge Henry Saad, was first nominated by the first President Bush and was never given a hearing. He has been waiting, in effect, for over a decade. It bears noting that when he is confirmed by this Senate, he will be the first Arab American to serve on the Federal courts.

The Constitution of the United States requires that the Senate responsibly and expeditiously vote on the President's nominees—"yea" or "nay"—and allow the courts to get on with their work. Instead, what is happening is that the President's nominees to the Sixth Circuit are being held up, and the Senate is blocked from performing its constitutional duty.

Among the 12 U.S. Courts of Appeals, the Sixth Circuit is now dead last in the timeliness of its disposition of cases.

District court judges within the Sixth Circuit warn us that by having to perform regular duty as a substitute judge on the court of appeals, their own trial dockets have slowed considerably.

Only a substantial commitment on the part of the senior judges of the Sixth Circuit, district judges from the within the Sixth Circuit, and visiting appellate judges from other circuits has kept the caseload even barely manageable. The Sixth Circuit is the third busiest court of appeals, and Chief

Judge Boyce Martin has asked Congress to authorize a 17th judge for the court. The court would be overworked even if it had its full complement of 16 judges.

According to District Judge Robert Bell, W.D. Michigan, "We're having to backfill with judges from other circuits, who are basically substitutes. You don't get the same sense of purpose and continuity you get with full-fledged court of appeals judges." Furthermore, "we don't have the time or the resources that the circuit court has. You can't help to conclude that if we had 16 full-time judges with the full complement of staff, that each case might get more consideration..."

Those are very troubling words: "Each case might get more consideration." It is unconscionable that we would deliberately allow our courts to get clogged up, backlogged, and undermined because some in Washington wish to politicize the process. Our courts are supposed to be fair and impartial. They are supposed to serve both victims and defendants. We are undermining the rights of our fellow citizens if we do not resolve this issue.

It is not just judges who are seeing what is happening. United States attorneys in Michigan tell us that the delays caused by the vacancies are complicating their ability to prosecute wrongdoers, defendants are able to commit more crime while awaiting trial, there is less consistency in the court's jurisprudence, and the United States is effectively being deprived of en banc review in some cases.

A letter signed by 31 Assistant United States Attorneys in the Eastern District of Michigan states:

[I]n years past, it was the normal practice of the Sixth Circuit that a case would be heard by the Court approximately three months after all briefs were filed, and in most cases an opinion would issue in about three additional months. At present, due to the large number of vacancies on the Court . . . it has been taking on average between twelve and eighteen months longer for most appeals to be completed . . .

Moreover, they go on:

[D]elays in criminal cases hurt the government . . . [T]he longer a case goes on, the more chance there is that witnesses will disappear, forget, or die, documents will be lost, and investigators will retire or be transferred . . . In some cases, convicted criminal defendants are granted bond pending appeal. The elongated appellate process therefore allows defendants to remain on the street for a longer period of time, possibly committing new offenses. In addition, the longer delay makes retrials more difficult if the appeal results in the reversal of a conviction.

They go on:

[T]he Sixth Circuit has resorted to having more district judges sit by designation as panel members. This practice has contributed to a slowdown of the hearing of cases in the district courts, because the district judges are taken out of those courtrooms. The widespread use of district judges also provides for less consistency in the appellate process than would obtain if full-time Circuit Judges heard most of the appeals.

And they conclude:

In some cases, the small number of judges on the Court has served to effectively deprive the United States of en banc review . . . Achieving a unanimous vote of all of those judges of the Court who were not part of the original panel is, as a matter of practice, impossible, and not worth seeking. However, if the Court was at full strength, an en banc review could have been granted with the votes of about two thirds of the active judges who were not part of the original panel.

I quote their comments at length because I want to lay out in unambiguous terms what is happening to our justice system.

Justice delayed is justice denied—justice denied to everyone, including victims, defendants, and the entire community.

President Bush has nominated four well-qualified individuals from Michigan to fill these vacancies. The objections of the Michigan Senators are, in my view, unreasonable. The basis of their complaint is that two nominees were left without hearings at the end of President Clinton's term in 2001.

They ignore the fact that two nominees were also left without hearings at the end of President Bush's term in 1993, which means that President Clinton got to appoint the same number of judges to the Sixth Circuit as the number of vacancies that came open during his Presidency.

Both parties have left nominations ending at the end of Presidents' terms. But the effort by my Michigan colleagues to block nominations at the outset of a President's term is unheard of.

Five of the Sixth Circuit's active judges—nearly half—were appointed by President Clinton.

Let me read from the Grand Rapids Press. It makes the point well, saying:

The Constitution does not give [Sens. Levin and Stabenow] co-presidential authority and certainly does not support the use of the Court of Appeals to nurse a political grudge . . . [Sens. Levin and Stabenow] have proposed that the president let a bipartisan commission make Sixth circuit nominations or that Mr. Bush renominate the two lapsed Clinton nominations. Mr. Bush has shown no interest in either retreat from his constitutional prerogatives. Nor should he. Movement in this matter should come from Sens. Levin and Stabenow—and, clearly, it should be backward.

Our courts cannot work if we do not have judges to run them. And our communities suffer when our courts do not work—victims, who never see justice, defendants who hang in limbo, and communities that go unprotected.

President Bush's judicial nominees deserve a simple up-or-down vote. That is all that is being asked. This is one of our most important constitutional duties. We cannot use the system to nurse grudges. The consequences are too great. The public expects us to do our duty. I call upon my fellow Senators to exercise their constitutional responsibilities and free the Michigan four.

Mr. President, I yield the Republican time to the majority whip, the Senator from Kentucky.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. McCONNELL. I thank the Chair.

Mr. President, I thank the majority leader for outlining what is truly a crisis in the Sixth Judicial Circuit, the federal circuit which includes Tennessee, Kentucky, Ohio, and Michigan.

As this chart illustrates, of the 16 judgeships on the Sixth Circuit, 4 seats are vacant. They are all Michigan seats. They are being held up by the Michigan Senators, strangely enough, as the majority leader has outlined, based upon some grievance that occurred in the past. But the problem is not the past; it is the present. We have a judicial vacancy crisis in the Sixth Circuit that affects not only the State of Michigan but litigants in Tennessee, Kentucky, and Ohio.

If we look at the second chart, we will see what the effect is on litigants. Back in 1996, the Sixth Circuit had to handle about 364 cases per active judge. For 2002, it is up to 643 cases per active judge, an increase of 77 percent.

The Sixth Circuit is essentially swamped with litigation, and justice is being denied by being delayed. It is the slowest circuit in the country. Sixth Circuit litigants have to wait on justice 50 percent longer than any other litigants in any other part of America just because they happen to be a litigant in the Sixth Judicial Circuit because of the action of the Michigan Senators in holding up all four of these well-qualified nominations to the Sixth Circuit. If you are so unfortunate as to be a litigant in the Sixth Circuit, you have to wait 50 percent longer than the national average to have your case dealt with.

Senatorial prerogatives are important, but my recollection is Senators do not get to pick circuit judges in the first place. I guess we can have an argument about the blue slip policy as it relates to district judges, but we do not get to pick circuit judges; they are a Presidential prerogative.

To simply withhold judges at the circuit level to secure nominations that the election does not give you an opportunity to achieve—in other words, the Republicans won the election in 2000—and, by doing that, dramatically disadvantage litigants not only in your own State but in three other States, seems to this Senator unfair.

I guess the issue is what can be done about it. As the majority leader indicated and as I believe the senior Senator from Illinois indicated last week—the Senator from Illinois noted that there had not been any hearings on these nominees—my suggestion and the majority leader's suggestion to the chairman of the Judiciary committee, Senator HATCH, is to have hearings on these nominees. We have sent him a letter requesting that, because of the judicial emergencies in the Sixth Circuit, he go forward with hearings on these nominees.

I hope Chairman HATCH will do that and the committee will forthwith act

on these judges, send them to the floor, and let the Senate work its will because we have a crisis. My people in Kentucky did not have anything to do with this issue, and they ought not be penalized because of actions in some other State in the Sixth Judicial Circuit. I hope Senator HATCH, the chairman of the Judiciary Committee, will hold these hearings in the very near future.

Mr. FRIST. Will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. I do yield for a question.

Mr. FRIST. Mr. President, I ask the Senator from Kentucky to share his concern as to the effect this particular delay of the Sixth Circuit nominees has on the people we serve every day and how their real lives are being affected. I think that is what drives us in moving forward, recognizing this delay is simply unacceptable.

Mr. MCCONNELL. Mr. President, if you are a litigant from Tennessee or Kentucky and are having to wait 50 percent longer than a litigant in some other State because of the actions by the Senators from Michigan, it seems to me that is simply unfair. Because of some grievance that occurred in the past, some score being settled by holding hostage these litigants from Tennessee and Kentucky who had nothing to do with this situation, I think is grossly unfair.

One thing the majority leader has asked Senator HATCH to do that will help is have hearings, as has been suggested by the senior Senator from Illinois, and move forward on these nominations.

Mr. FRIST. Mr. President, I thank the Senator. That does bring into focus what we are here to do. For me, that brings into focus why, for us to be good stewards of the judiciary, we need to accelerate this process and move it forward. Indeed, that is what the Constitution calls upon us to do.

Mr. President, how much time remains on this side?

The ACTING PRESIDENT pro tempore. The leader controls 2 minutes 15 seconds.

Mr. FRIST. I yield the remainder of our time to the distinguished Senator from Tennessee.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I thank the majority leader and the whip for bringing this to the attention of the Senate.

I am new to the Senate. This situation is very disappointing to me as a Senator from the Sixth Circuit. I will give one example of how this affects people in real time and real lives in Tennessee, Kentucky, Ohio, and Michigan. Thirty-one assistant U.S. attorneys in the Eastern District of Michigan have written a letter to Senator LEVIN to complain that the vacancies have slowed justice, have complicated prosecutions, have enabled criminals

to commit more crimes while awaiting trial, have led to less consistency in decisions, and have deprived the United States of en banc review in some cases.

A group of law professors, in a letter to the majority leader, stated that because of the unfilled judicial vacancies, the Sixth Circuit takes as long as 15 months to reach a final disposition, 5 months more than the national average.

This is unfair to the people in our State. I hope the Judiciary Committee will move swiftly to hearings and the Senate will move swiftly to consider, vote on, and hopefully confirm the Michigan four.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, how much time do the Democrats have in morning business?

The ACTING PRESIDENT pro tempore. The Democrats have 15 minutes under a previous order.

Mr. REID. Mr. President, I yield all 15 minutes to Senator MIKULSKI.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized for up to 10 minutes.

Ms. MIKULSKI. I thank the Chair.

Mr. President, I yield 5 minutes to the Senator from Michigan and then 10 minutes to myself.

#### JUDICIAL NOMINEES

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for 5 minutes.

Ms. STABENOW. Mr. President, I thank my colleague and dear friend from Maryland. She has been waiting to speak for a long time. I appreciate her graciousness in allowing me to speak for a moment.

This is a very unfortunate time in the State of Michigan. We have traditionally had bipartisan cooperation on issues that affect our wonderful State and the people we all represent. I cannot think of a time when we have had in previous Congresses Republican colleagues on the House side doing press conferences and attacking the Senators. It is very unfortunate.

Let me speak first to the numbers our distinguished majority leader just used and other Members on the other side of the aisle. It is my understanding those numbers about backlogs were prior to the filling of four vacancies on the Sixth Circuit. So we are looking at a situation where there have been four vacancies already filled. Retired judges are used to hear cases.

We do not hear about the kind of backlog and the concern about the lack of justice going on in the Sixth Circuit. I believe that is absolutely inaccurate. What we do hear is a great concern about playing politics.

There was an effort to hold up all the nominees to the Sixth Circuit under President Clinton. Now, coming into this Senate, Senator LEVIN and I have attempted to work with the adminis-

tration to have a bipartisan solution to stop this. That is what we have been about, not going on with partisanship, which is what is happening now. Rather than working with us for a bipartisan solution, we see partisan press conferences. We see our colleagues on the other side of the aisle, and unfortunately our colleagues in the House on the Republican side, holding press conference after press conference attacking us, rather than working things out.

How do we work it out? Well, many States have bipartisan commissions to recommend nominees to the President, working with the Senators. We have put forward the Wisconsin motto which has the Senators from one party placing four people on a commission. The senior Republican in this case, Congressman SENSENBRENNER from Wisconsin, who is a part of this process, nominates four. They have two people from the Wisconsin bar, and the heads of the law schools. It works. It has been embraced by the White House.

It is disconcerting to me to see what has been agreed to and worked well in Wisconsin will not be allowed in Michigan. We know that in Washington State there is a commission. We know there are agreements in other States to work together with the Senators. But somehow in Michigan, instead of doing that, so our families, our workers, and our businesses can be represented and know that we will provide mainstream judges in a bipartisan way, we see unfortunate comments on the floor, we see misinformation, we see political press conferences over and over again.

This is how we got to this situation. It was partisanship in the last Senate under President Clinton, holding up the nominees. We are trying to change that and say let's stop this.

Instead of press conferences, I welcome colleagues in the Senate, as well as our House Members, to join us, to sit down and develop a motto such as Wisconsin and other States, where it works in a bipartisan way, to be able to put forward judges to fill these vacancies.

It is important who is on the bench. This is not the President's prerogative alone, nor any individual Senator. It means we need to work together because our families are affected, our business community, issues of privacy, health care, business law, the environment. Many issues are affected, and so it matters who is on the court from Michigan. We simply ask that we be treated with fairness as other Senators in other States have been, and we will continue to work to that end.

I yield back for my colleague from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. Ten minutes.

Ms. MIKULSKI. I claim such time for myself.

# NEED OF INTERNATIONAL COMMUNITY IN IRAQ

Ms. MIKULSKI. Mr. President, I rise today to address the situation in Iraq. Right now, America is bearing the primary burden in Iraq. Almost every day another soldier dies—not in combat but in postwar occupation. Our American soldiers must not bear this burden alone. Quite frankly, the American taxpayer must not bear responsibility for the cost of nation building alone.

I urge our President, President Bush, to build an international effort to participate in sharing the burden and the responsibility of bringing order out of chaos in Iraq.

The occupation of Iraq is something we all have to face up to. Last year, when the Senate debated the Iraq war resolution, I said this: We do not know whether our troops will be welcomed with flags or with land mines.

Now we know. Our troops are facing great and grave danger. They are facing snipers, ambush. One soldier was shot in the back as he waited to buy a soda. Another was standing in line to buy DVDs, and he was shot in the back. This is not combat with an opposing army. These are murders, these are assassinations, and we need to stand up for our troops and give them the help and the backing they need.

We need to stand up for these troops who are so dedicated, so duty driven, so wanting to do the job that America sends them to do, but they should not bear this all by themselves, with a few treasured allies.

Since the President declared the end of hostilities, 82 soldiers have died. Our troops in Iraq are not peacekeepers or nation builders. There is no peace to keep and there is no nation to build. We have to start from scratch. America's troops now are an occupying force, and they continue to face very fierce resistance in parts of Iraq. In some areas, it is guerilla war with house to house fighting with members of the Saddam Fedayeen or other groups still loyal to Saddam Hussein trying to kill them. They are trying to ambush our military convoys.

Our forces are seeking to establish order and security. Yet they are very highly visible, whether they are guarding facilities such as power stations or delivering supplies or training the Iraqi police force. This puts them at grave risk. American soldiers must not face this danger all alone.

About 148,000 American soldiers are still serving in Iraq, and we salute them. There are over 13,000 troops from the United Kingdom, Australia, Poland, and other countries, and we thank them for being there. Many Marylanders are serving there, including members of our National Guard and Reserves, and I stand up for them to make sure they get the backup they need and they can return home from their deployment.

America should not stand with just a coalition of the few. We need to have the international force of the many.

This is why we need to go to the U.N. and ask for help. We need to go to NATO and get them involved, and we need to go to the world to help pay for the cost of doing this.

Occupying Iraq is not easy and it is not cheap. Rumsfeld has now doubled his estimates of the cost of occupying Iraq, from \$2 billion a month to \$4 billion a month. The Pentagon estimates that the total cost will be over \$100 billion. The American taxpayers are bearing that responsibility, and they will bear that responsibility for some time to come. When we talk about responsibility, it should be the responsibility of the world to help rebuild the power stations while we are trying to work to create a new power structure.

Last week I supported a burden sharing amendment to the State Department authorization bill. Ninety-seven Senators agreed to that. Not one disputed it. What did it recommend? That the President ask NATO to raise a military force for deployment in postwar Iraq, and to urge NATO allies and other nations to provide troops and police to the coalition efforts in Iraq, and that the President should call on the United Nations to urge its member states to provide military forces and civilian police to promote stability and security in Iraq.

It also said go to the U.N. to ask for resources to rebuild and administer Iraq. Iraqi oil alone will not pay for this. We have to get these oil wells ready.

When the President asked for authorization to go to war, I said that if it is important enough to go to war, if it is important enough to the world to go to war, then the world should come with us.

We must bring the entire international community with us to share responsibilities and the burden of stopping these threats.

I saw the situation we are in coming. That is what I worried about, that American troops would be there by themselves, with a few steadfast allies, and the American taxpayer would be the one facing this nation building. That was my position then and it is still my position.

During the debate in the Senate, I urged the Senate to support the Levin amendment, which called for international legitimacy, for international cooperation, international support, including military and international resources, meaning real money. I spoke on the Senate floor about the threat of Saddam Hussein, and I spoke about the threats to our troops. I said then that I firmly believed Saddam Hussein was duplicitous, deceptive, and dangerous and that they had grim and goulsh means to carry out their weapons plans. I did believe that they could develop, produce, and stockpile chemical and biological weapons, and I did believe that they had the means for delivering them in the region. Whether the information I was given in all my briefings was valid or not is something to probe in another forum. We are committed to doing that.

Right now, we need to acknowledge Saddam threatened not only the United States, he threatened the region and he threatened the world. Now the region and the world have to get into this. It is not too late. President Bush should mount a new diplomatic effort, recruiting allies to share these burdens of occupying Iraq and to root out the remaining resistance. We have to go to the U.N. and NATO to get formal authorization, get international help for this rebuilding. This is an opportunity to reach out, even to countries that opposed the war, such as France and Germany, and get them involved.

I hope we can answer this call before the Iraqi resistance fight grows, before more American soldiers die, without sending more troops into Iraq by getting our allies to join. If our allies join, they can help provide the troops, they can help provide the police, and they can help provide the money.

To our troops—regular, reserve, and their families—I say thanks. Thanks for helping get rid of Saddam Hussein and his regime. They were international thugs. They have made tremendous sacrifices. Each and every member of our military is part of this American family. We thank them for their bravery, their fortitude, and their gallantry. They answered the call to duty. I salute every single member of our Armed Forces.

I express my condolences to all Marylanders who lost their lives and paid the ultimate sacrifice. Captain Rippitoe, CPL Mark Evnin, SGT Kendall Waters Bey, PFC Juan Guadalupe, SP George Mitchell, and CPL Jason Mileo. I honor these men and their families, all the Marylanders wounded, and every American soldier right now either in Baghdad or in a hospital recovering.

Our troops know we count on them. They have to count on us to get them the help they need, not only with the right resources for our military but to get more military from other nations to support them. The international community was divided over whether to go to war in Iraq. Now the world should unite in support of winning the peace our American men and women have fought so hard to win and for which they have given so many sacrifices.

I yield the floor.

Mr. BAUCUS. Mr. President, I join with Senator MIKULSKI in her comments expressing concern about the United States role in Iraq, the safety of our troops in Iraq, and how proud we are of our troops. I urge the administration to do what is necessary to restore morale. The best way is to do the right thing by our troops, make sure they are strongly supported and, even more fundamentally, rethink our position in Iraq: What is our policy? What are we attempting to accomplish? Then encourage many more of our allies, both in the Arab world and other parts of the world, to join the United States.



This is a problem that will only be resolved with more thoughtfulness and more direct candor about the nature of the problem and working closely with our allies, both Arabs and others.

We should also focus a little bit more on terrorism generally rather than get diverted, as we seem to be, in specific countries. It is extremely complex, but there is building concern in the United States about United States policy in Iraq. I join those who believe we should focus more on terrorism around the world. This requires the cooperation of a lot more countries around the world to be successful. I hope we can accomplish that.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, morning business is closed.

#### BURMESE FREEDOM AND DEMOCRACY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will proceed to the consideration of H.R. 2330, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2330) to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). There is 1 hour of debate equally divided in the usual form with no amendments to the bill.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise today to discuss the Burma sanctions bill. This bill is the result of a collaborative effort between Senators MCCONNELL, GRASSLEY and myself.

When first introduced, the bill would have imposed sanctions without an opportunity for congressional review. I was concerned that Congress would simply pass a bill, and then forget about Burma.

I think that is the wrong approach when it comes to sanctions.

Senator GRASSLEY and I worked hard to ensure that Congress would have the opportunity to revisit this issue every year. The House went even further, by requiring an annual vote, plus a 3-year sunset.

Now, make no mistake about it, the actions by the dictatorship in Burma are unacceptable. The arrests and treatment of Aung San Suu Kyi are deplorable and cannot be tolerated.

Yet as is so often the case when we debate the merits of international sanctions, the question is not whether to punish Burma's ruling regime; the question is how to do so effectively.

We have learned through our own experiences that unilateral sanctions simply don't work. They rarely desta-

bilize the oppressive regime that is the target of the sanctions. Instead, they only hurt the people—both in the target country and even here in the United States.

Unfortunately, we have also seen how, once a sanctions policy is in place, it is very difficult—no matter how ineffective the policy is, to terminate it and find a better solution.

So, how do we deal with this dilemma?

The answer is found in a simple appeal to common sense.

First, we must actively seek the cooperation of our allies. Multilateral action is essential if the policy is to be effective. Second, we must give ourselves a chance to review and revise the policy if it isn't working.

That is what this bill does with Burma. It imposes sanctions. It also encourages the president to work with our allies in the region to build a collective response. And I understand our allies are considering sanctions.

This bill also requires Congress to revisit the issue every year. If the policy is working, then we can renew it. But if it isn't working, then we can terminate it and try a new policy. This legislation will keep the dictatorship's feet to the fire. It will create regular incentives for them to change.

It is just this sort of common-sense approach that is needed with other U.S. sanctions, particularly against Cuba.

By any honest assessment, our embargo against Cuba—now in its fifth decade—is a total failure. The U.S. is alone in pursuing this failed policy, yet politics prevents us from reassessing it.

Thus, the Cuban embargo has become institutionalized. And the fight to end the embargo, even though ending it makes so much sense, has become a difficult, uphill battle.

We do not want that to happen to the Burma sanctions. We want the people of Burma to enjoy true democracy and freedom. And we want to pursue the policy that will help them achieve this. So we will try sanctions. But if they don't work, and if we are not joined by our allies in this cause, then Congress will revisit this issue in a year.

In the coming weeks, many Members will be pressing for action to reform Cuba sanctions. I hope that today's debate on Burma highlights the inconsistency of our sanctions policy, and that we can apply a common-sense approach as we move forward on other sanctions issues.

I now would like to yield 10 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

#### IRAQ INTELLIGENCE

Mr. CORZINE. Mr. President, I thank my distinguished colleague from Montana who as always is representing issues that make an enormous difference to the quality of our debates here on the Senate floor but, more important, to how our world works, both here at home and abroad. I appreciate it very much.

Mr. President, I rise today to join in a growing expression of concern by my colleagues and the American people about the possible misrepresentation of intelligence information by the President and the administration in building its case for the war in Iraq. Without a thorough explanation of why many of the administration's statements are in conflict, and have included claims unsubstantiated by the best intelligence, the American people, their representatives, and many of our would-be international partners in post-conflict Iraq, will most certainly begin to lose confidence in the administration's word. Simply, the Nation's credibility, in my view, is at stake.

That credibility is vital as we approach burden-sharing efforts in the reconstruction and democratization of Iraq, the projected cost of which grows each and every day.

There were reports again this morning that another American soldier lost his life in that reconstruction and democratization effort. All told, in New Jersey there have been seven men and women who have lost their lives in Iraq. We are paying a serious toll, not only in terms of financial expense, as recently reported, but, most importantly, in the life and blood of our brave soldiers.

A thorough public review is necessary, in my view, if we are to reestablish the United States' credibility. And once all the facts come to light, we need to hold those responsible accountable. Our leaders need to promptly admit and correct all misstatements, exaggerations, and overreaching interpretations.

On the White House Web site, the pages that relate to the conflict of Iraq are titled "Denial and Deception." The American people can only hope that is not a moniker for the administration's presentation of its case for the war in Iraq.

As we are now all well aware, in this year's State of the Union Address President Bush said:

The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.

The power of the President's allegations in those 16 short words cannot be overstated. The Bush administration, using legalistic language, was leading people to embrace, at least in my view, the view that Saddam Hussein had an active nuclear program. The President didn't say the British were claiming anything. He didn't say they alleged anything. He said they "learned" that Saddam was attempting to buy uranium, implicitly accepting the charge as fact.

Although just 16 words long, it was a powerful statement that resonated in the context of debates that had gone on throughout the Nation and the world. Only much later did we the people and the Congress learn this statement was based on information that our own intelligence agency earlier learned was false.



Yesterday morning, Senator LEVIN, the distinguished ranking member of the Senate Armed Services Committee, laid out seven questions about claims regarding Iraq and the uranium. Senator LEVIN argued these should be answered in the context of a bipartisan investigation. I believe that is true, and I could not agree more.

This is not just a concern about the African uranium issue. It is about whether there was a fair and full presentation to the American people. But to the list of the seven questions, I would add an eighth. If the information in the State of the Union Address was technically accurate, as administration officials have lately argued, why was it excluded in Secretary Powell's 90-minute presentation before the United Nations only 8 days later? Why was the intelligence on alleged Iraqi uranium purchases good enough for the State of the Union Address, a 1-hour speech addressing a variety of issues besides Iraq, but not good enough for a U.N. speech laying out the complete case against Iraq in painstaking detail 1 week later?

I would add a ninth question to Senator LEVIN's list. Why did we learn about the misleading nature of these comments in the State of the Union, not from the administration, but from the International Atomic Energy Agency and the media? If there is no good explanation for the administration's delay in correcting the error, it is hard to escape the conclusion this was not just a series of blunders. Was it a strategy for winning an argument? What was it about? Was there a coverup involved? I think those questions need to be asked.

This is not an academic matter. At stake is nothing less than the credibility of the United States, and that is important for protecting the American people. That credibility gets weakened each day the administration fails to provide a complete and candid explanation of what happened. Who knew? When did they know it? Why did they wait until now to break the conspiracy of silence?

Keep in mind, political leaders around the world, not just here at home, have staked their own reputations on their support of President Bush and the United States. As a consequence, many of our closest allies and their elected officials are facing enormous criticism from their own citizens, and sometimes—and this is quite telling—from their own political parties. We owe it not only to the American people but to all those who stood with us to be straight and to come clean immediately. Otherwise, this episode will only undermine our ability to win support for other critical foreign policy interests in the future, and they are substantial. In fact, without a clear explanation or an admission of fault, we put the American people at risk facing a world where our partners question our credibility on all issues—Iran and Syria, North Korea.

The problem is especially troubling when viewed in the context of a broader pattern of selective information provided by the administration. Last October, for example, during the Iraqi debate—this is one that is particularly troubling to me—Secretary James Kelly was in Pyongyang, meeting with the North Koreans. At that meeting, a meeting that occurred a full week prior to the Senate vote on the resolution authorizing force in Iraq, the North Koreans admitted to an active nuclear program. Yet despite its importance and relevance to the debate regarding Iraq and America's national security posture generally, the administration waited until after the Congress had voted on the resolution to authorize the use of force before revealing the details of the North Korean disclosure.

To this Senator, that information was both relevant and timely to the Iraqi debate. Apparently, because it might affect the tenor of the debate, the information was withheld from the full Congress until after the vote.

What are our priorities? Where were the dangers and how do we frame this issue, particularly as it relates to the security of the people of the United States? I ask, where is and where was the greater risk to the American people?

As Senator LEVIN and others have explained, there were many other instances in which the administration selectively, in some form or another, misrepresented or withheld information to support their case for the war in Iraq.

For example, the administration claimed there were linkages between al-Qaida and Iraq. But those claims now seem overstated or exaggerated and apparently were based on scant and circumstantial evidence.

Another widely discussed issue relates to Iraq's purchase of aluminum tubes, where there was considerable debate within the intelligence community about whether the tubes were useful as part of a nuclear program.

When you add up these claims, it becomes clear that the administration certainly was seeking to win an argument—not inform—and quite obviously it worked.

As John Adams once said, "Facts are stubborn things; and whatever may be our wishes, or inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence."

We need to ensure that the facts come out. We should do it on a bipartisan basis, and we should do it immediately. The safety and security of the American people are at stake.

We need to hold accountable not only those responsible for providing misleading intelligence but also those responsible for preventing the facts from coming out. The credibility of this President and the future credibility of the United States are at stake. I hope we can deal with this in an expeditious and clear manner. Hopefully, this in turn will set us on a course where we

can share the burdens not only in Iraq but of protecting the American people around the globe in the days and years ahead.

Thank you. I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. McCONNELL. Mr. President, the Senate is going to do something important later this morning; that is, send a message to Burma that we don't intend to do business with them any longer. In addition to that, this Freedom and Democracy Act, which will pass the Senate later this morning and go down to the President for signature, will guarantee that we have another debate in each of the next 3 years very similar to the MFN China issue with which we are all familiar where the issue came back before the Senate with an expedited procedure once a year.

This is not the last time we will be dealing with the Burmese Freedom and Democracy Act, and certainly it will not be the last time we deal with Burma until the legitimately elected leader of that country is not only out of prison but in power.

I thank my colleagues in both the Senate and House for acting quickly on the Burmese Freedom and Democracy Act of 2003. The 418-2 vote in the House yesterday complements the 97-1 vote we had on a very similar bill in the Senate on June 11.

The message from the United States Congress to the world could not be more clear—the assault on freedom in Burma will not stand.

With the cooperation and support of my colleagues in the Senate, the Burmese Freedom and Democracy Act will shortly be on its way to the White House for signature by the President.

When the people of Burma needed support in their struggle for freedom, America acted—and acted decisively.

Unfortunately, there has been no change in the situation in Burma since this measure was first introduced.

It is an outrage and a violation of human decency that democracy leader Daw Aung San Suu Kyi and other democrats continue to be held by the thugs calling themselves the State Peace and Development Council (SPDC). Instead of giving the world access to Suu Kyi, Burmese strongman General Than Shwe has dispatched his minions to regional capitals on a misinformation campaign laying blame for the May 30 ambush on Suu Kyi and her party, the National League for Democracy (NLD). Few should be duped by this desperate measure, and an import ban and other sanctions against Burma cannot come soon enough.

More must be done to support the struggle of freedom in Burma. It is past time that neighbors—especially Thailand and China—take off their blinders to the multitude of dangers posed by Burma to the region. We already know that HIV/AIDS and drug use unravels the social and economic fabric of bordering countries, and engagement with the SPDC serves only to further perpetuate lawlessness in Burma that

threatens peace and stability, not just in Burma but throughout all of south-east Asia.

The United Nations has a role to play in creating a unified front against the regime. The Security Council should be briefed by U.N. Special Envoy Razali Ismail on the situation in Burma, and further action by that body should be contemplated.

However, words of condemnation are not enough. While I was pleased to meet with Razali when he was in Washington last week, frankly, his time is better spent in Asia shuttling between capitals and marshaling support for the release of Suu Kyi and other democrats and for the recognition of the results of the 1990 elections which have never been honored. Suu Kyi and her party got 80 percent of the vote but were never allowed to take power, and she has been under house arrest for most of the last 3 years.

America's leadership is as important as it can possibly be. By signing the Burmese Freedom and Democracy Act, President Bush will clearly signal that the United States stands by the Burmese people in their hour of need. Our allies should take note of the import ban and other measures contained in the act and immediately follow suit.

The only way this is going to work is on a multilateral basis. It worked in South Africa. Generally, I am skeptical of these kinds of import bans. But there was one conspicuous example of where it worked, and that was in South Africa. The reason it did was because everybody cooperated. We are calling on the international community to isolate these thugs and not do business with them.

Change will come in Burma only if the free world has the collective will to hold the SPDC accountable for its brutality.

Some may continue to beat the ragged drum of engagement, but dialog is as dead as those the SPDC murdered on May 30. It is folly to think engagement will "encourage positive changes" within the SPDC. This tiger will never change its stripes. For over a decade, engagement has been tried. While the junta has made hollow promises of "reconciliation" with the NLD and ethnic nationalities, general Than Shwe has no intentions of relinquishing power on his own. He must be pressured by the world into doing so.

It is not enough for envoys and diplomats to meet with Than Shwe's underlings and other senior SPDC leaders in Rangoon. Than Shwe's grip in Burma is no less than Saddam Hussein's was in Iraq. If Japan, Thailand, Indonesia, and other Southeast Asian nations are to have an impact on the situation, they must deal directly with Burma's top thug.

Let me be clear. Than Shwe is personally responsible for the May 30 murders and subsequent injury and arrest of countless Burmese democracy activists. He is responsible for the ongoing and systemic egregious human rights

abuses perpetuated upon the ethnic nationalities in that country.

The fact that no outsider has seen Suu Kyi since Razali's brief meeting in early June should be a cause for alarm.

We need to know exactly where she is being held and the state of her physical condition. No one has time for peek-a-boo games the junta may be interested in playing.

Suu Kyi must be immediately and unconditionally released, along with all other democrats whose only crime is advocating democracy and the rule of law.

With the passage of this act, our work on this issue is hardly over. The people of Burma can count on America's continued support for the struggle for freedom in their country. I intend to seize every opportunity to advance this cause both in Washington and abroad.

And I know that I can count on many of my colleagues to do the same. I particularly want to thank Senators FEINSTEIN and MCCAIN, who are no less outraged than I at the horrific abuses of the SPDC and the continued detention of Suu Kyi and other Burmese democrats. On the House side, Congressmen LANTOS, KING, and HYDE were equally energetic in responding to this crisis. Burma has no better friends than these freedom-loving Americans.

Democracy and the rule of law will prevail in Burma. As we near this historic vote this morning, I am reminded of the Reverend Martin Luther King's observation that the "arc of the moral universe is long, but it bends toward justice." This morning, we must commit ourselves never to tire in the pursuit of justice in long-suffering Burma until Suu Kyi is free and the struggle for freedom won.

Suu Kyi has kindled the flame of freedom in the hearts and minds of her compatriots. America must ensure that it is never extinguished.

Let me close by saying that the Burmese Freedom and Democracy Act would not have moved so swiftly through the Congress were it not for the efforts of Senator FEINSTEIN and particularly Senator MCCAIN. Senators LUGAR and BIDEN of the Foreign Relations Committee gave this legislation an opportunity to move quickly. They could have insisted on it going to Foreign Relations. They did not. Senator GRASSLEY and Senator BAUCUS had very useful suggestions to make in terms of the form of the final bill. And my colleague Senator LEAHY also played an integral part.

Over in the House, Congressmen LANTOS, DELAY, THOMAS, HYDE, and KING were all instrumental in securing swift passage of the act.

In terms of staff, I just want to mention my crew who were involved: Billy Piper, my chief of staff; Brian Lewis, who is my counsel on the Senate floor; Robert Karem; and Paul Grove, a long-time friend and associate, who is the staff director of the Foreign Operations Subcommittee, who has had an intense interest in this issue for a long time.

I give special thanks and recognition to my former staffer who used to have Paul Groves' job, Robin Cleveland, who is now Assistant OMB Director in the Bush administration, who, 10 years ago, sparked my interest in this whole issue. It is hard to believe it has been 10 years, but, unfortunately, not much has changed in Burma. Ten years of the status quo is completely unacceptable. The Burmese people have a friend in Robin Cleveland.

Finally, I thank those in the NGO community for their tireless efforts in support of Burma. There are a lot of very committed activists in the United States who also travel to the area who are intensely interested in this issue and who will never give up until Suu Kyi has an opportunity to be free not only of prison but free to assume the power that she and her supporters earned in the free elections back in 1990.

Mr. President, I know Senator MCCAIN wants to speak. How much time do I have remaining?

The PRESIDING OFFICER. The majority has 19 minutes 5 seconds.

Mr. MCCONNELL. I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I do want to make a few further observations related to Thailand, Burma's neighbor, and their policy toward Burma.

When Thai Prime Minister Thaksin Shinawatra was in Washington last week, we had an opportunity to discuss the situation in Burma and Thai policy toward the repressive regime. Unfortunately, the Prime Minister seemed to indicate that Thailand would not change its policy of engagement with the SPDC. I know the President brought it up with him as well because the President told me he brought the matter up with the Thais as well when he met the Thai Prime Minister. If we look at Thailand today, we can see the benefits of this policy they have been following.

Drug abuse has spun wildly out of control, causing His Majesty the King of Thailand to publicly comment on the threats to his beloved country from narcotics trafficking and abuse. With this abuse has come HIV/AIDS, crime and prostitution.

Where do these drugs come from? Why, they come from Burma, of course.

Thailand today is home to countless innocent people seeking sanctuary from gross human rights violations and the denial of even the most basic of freedoms. Thailand's response has been

less than compassionate, with many of these men, women, and children detained and deported back to their homeland, and others denied access to humanitarian assistance.

Where do the refugees have to return? Why, Burma, of course.

Tensions along the Thai-Burma border have periodically spilled over into skirmishes between Thai soldiers and those of the SPDC. Burmese investment in armaments, including MiG aircraft purchased from Russia, pose an immediate danger to the entire region.

What is the source of this instability? Burma.

The Thai Prime Minister should have departed the United States with a firm understanding that protection of freedom in Burma was a top priority for both Congress and the administration.

Unfortunately, I do not think he got the message.

I understand that on July 31 and August 1 a meeting will be held in Bangkok between Thailand, Cambodia, Laos, and Burma to discuss economic cooperation strategies. Prime Minister Shinawatra should take note of the vote we are about to cast and reconsider hosting this meeting.

Instead of promoting economic cooperation strategies, Thailand should be working to free Aung San Suu Kyi and other democrats being detained by the SPDC. Democrats should help democrats during times of duress.

I will have more to say about Thailand at a later date, but we should have a right to expect more from the Thais who have been one of our strongest allies in that region over the years.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, first, I thank Senator MCCONNELL for his leadership on this issue, not only now as we are in an incredibly critical moment in time in the history of the struggle of the Burmese people for freedom, but for his longstanding advocacy in this noble cause and his commitment to the security and safety of one of the heroic figures of the 20th and 21st centuries, Aung San Suu Kyi.

Again, I thank him for not only motivating this body to rapid passage of this legislation but to his work with the other body which has resulted in us being able to pass it overwhelmingly today. I thank Senator MCCONNELL again, and I regret to say we are a long way from seeing a resolution of this terrible unfolding, unending tragedy taking place in Burma. I guess as a personal pique, I refuse to call it

Muanmar, which the junta have changed the name to, and we have a lot more to do. But I believe what we are doing today, because of his sponsorship, will send a message throughout Burma that we have not abandoned this heroic woman, nor have we abandoned the cause of democracy and freedom in this country of gentle people who deserve a great deal better than the group of thugs who have been oppressing them and repressing them for a long period of time.

It has been almost 7 weeks since Burma's military junta orchestrated a savage attack on Burma's democrats and their leader Aung San Suu Kyi. In response Congress acted with extraordinary speed and consensus to send to the President's desk the bill before us banning imports from Burma. It is imperative that he sign it immediately, as I am confident he will.

Aung San Suu Kyi and the Burmese people can't wait, nor should Burma's rulers and neighbors wait a day longer to hear the United States speak with one voice in support of freedom in Burma. Congressional action on this bill is nearing completion, but as the Senator from Kentucky has said, our commitment to Burma's people will not end until they are free. Our resolve will not weaken as long as the junta denies the Burmese people a right to live in a nation ruled by law, not fear, led by the elected leader whose appeal no amount of violence can diminish and whose courage no amount of suffering can dim.

It is now time for Burma's leaders, especially the frontline states, to join the United States and Europe in rejecting half measures and implementing a fundamentally new approach that looks forward to Burma's liberation rather than a mere moderation of an illegitimate regime's rule. Southeast Asia will not be stable or secure as long as the generals rule in Rangoon. Placing hope in a policy of reconciliation that relies more on the junta's goodwill than on international pressure for democratic change will do nothing to alter a status quo that upholds tyranny.

China, India, and Thailand directly suffer the effects of regional insecurity caused by AIDS, drugs, and refugees that flow across Burma's borders. They also suffer the economic consequences of living next to a bankrupt nation whose economy is controlled largely by drug lords and a corrupt military elite. While China may not be troubled by dictatorship in Burma, it would clearly benefit economically from having another Asian tiger on its borders which good government and Burma's natural wealth would make it.

Democratic India would benefit strategically and economically from a fellow democracy in Rangoon that could expand Indian influence in Southeast Asia and serve as a significant trading partner.

We expect more in particular from our ally Thailand which has done little

of substance to support change in Burma since the May 30 attacks. As far as I am concerned, business as usual won't cut it. We frankly expect a democratic ally such as Thailand to do more to oppose dictatorship in Burma, both out of principle and because of the insecurity its misrule brings to Thailand. We will be watching for signs of a new policy approach in Bangkok. This will be an issue in our bilateral relationship.

We welcome Japan's announcement of suspending new assistance to Burma as a result of the junta's crackdown. But Tokyo's existing aid programs send a mixed signal to the democrats who were so heartened by popular protests on their behalf in the streets of Tokyo. We would welcome the Government of Japan's reassessment of its entire policy toward Burma.

All of us appreciated ASEAN's joint statement calling for Aung San Suu Kyi's early release at the Phnom Penh summit, breaking with the group's history of noninterference in each other's affairs. But friends of ASEAN want to see it take concrete steps to prove its relevance to security and stability in Southeast Asia.

I remind my colleagues that when ASEAN admitted Burma into ASEAN, it was with the promise and commitment that things would improve in Burma. No one can argue that there has been anything but retrogression and an increase in brutality and, of course, the latest outrage in the capture and mistreatment of their freely elected leader.

Events in Burma are testing ASEAN as never before. Burma's crisis impacts every nation in the region, from AIDS, drugs, and refugees to political and economic instability. Those of us who want ASEAN to succeed expect it to play a leadership role in its own backyard and to deliver on its promises in 1997 that membership would change Burma. Some of us weren't convinced then and we are not convinced today. Burma will soon be preparing to assume ASEAN's presidency in 2006. What kind of an image does ASEAN have with Burma as its president? ASEAN's credibility can't withstand the presidency of a rogue regime that is unreconstructed and brutal, which has the blood of its people on its hands and imprisons their elected leader. As long as Burma festers, ASEAN looks either incapacitated, weak, or irrelevant.

As long as Aung San Suu Kyi remains in prison and the Burmese people live in fear, convinced Burma's neighbors are complicit in their suffering, the problem of Burma will be an issue in America's bilateral relations with nations across Asia. It is time for Burma to command the attention of the U.N. Security Council. Burma's misrule is clearly of international importance. The council has not even formally been briefed by Ambassador Razali Ismail since his visit over a

month ago to Rangoon as the Secretary General's personal representative. The United States should demand that the Security Council take up this issue.

As the United States, the EU, and even ASEAN have acknowledged, Burma is an international problem. The council would be remiss to ignore it, and even a council debate would command the attention of the generals. It might also command some attention in Beijing, Bangkok, Tokyo, and other capitals with the power to make a difference. It is past time for the United States and our allies to press this issue.

I am proud that Congress, with passage of this legislation, is speaking with one voice in support of Aung San Suu Kyi and the Burmese people. The generals must know we won't let up the pressure until Burma is free. The United States stands with the Burmese people in their struggle for the freedom that is their birthright and which the generals have stolen from them. We will do everything in our power to help them take back their country.

Mr. President, I ask unanimous consent that four editorials be printed in the RECORD. Two are from the Washington Post, one from the Wall Street Journal, and the final one a comment by Jack Straw, the foreign minister of Great Britain.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 14, 2003]

#### STOP STALLING ON BURMA

U.N. Secretary General Kofi Annan is scheduled to meet with President Bush at the White House today. Ahead of time, U.N. officials said they expected the two men to discuss Liberia, the Middle East and other matters. We trust that among those other matters will be a subject about which both leaders have claimed to be highly concerned: the crackdown on democracy activists in Burma. The leader of that Southeast Asian nation's democracy movement—the rightful leader of the country, in fact—remains in captivity, and neither Mr. Bush nor Mr. Annan has rallied to her defense as strenuously as one would expect.

It's been a month since Secretary of State Colin L. Powell promised prompt action to penalize the generals he referred to as "the thugs who run the Burmese government." The time had come, he said in an op-ed article in the Wall Street Journal, to freeze their financial assets and ban remittances to Burma. But the administration has taken no such steps. It's been six weeks since the junta sent 3,000 vigilantes, armed with wooden bats and sharpened iron rods, to beat and stab Aung San Suu Kyi's supporters as they traveled with her in the hinterland. Aung San Suu Kyi, a Nobel peace laureate, apparently escaped injury but was taken into custody and, except for one brief interview with a U.N. envoy, has not been heard from since. The Senate shortly thereafter approved a measure banning imports from Burma, where the generals control most companies, but the bill has yet to emerge from the House. It's scheduled for action this week; the House should vote and the president should sign the bill quickly into law.

And the United Nations? You might think the Security Council would have swung into

action to demand freedom for one of the world's most courageous leaders and for her colleagues and to address the threat to regional stability posed by the increasingly erratic junta. After all, there is no dispute as to her legitimacy; the party she leads overwhelmingly won an election in 1990 but has never been permitted to take its rightful place in government. So far, however, the chief U.N. response has been the election of Burma—or Myanmar, as the generals call it—to the vice presidency of the General Assembly for the session that begins in September.

For many years now, the United Nations and the United States have supported dialogue between Aung San Suu Kyi and the nation's junta leading toward peaceful democratization. She has consistently endorsed such a nonviolent process, even during many years of house arrest. With their murderous attack of May 30 and subsequent incarceration of her, Burma's leaders have shown contempt for the idea, and so far they have paid little price. The president and the secretary general could begin to change that equation today.

[From the Washington Post, June 22, 2003]

#### WHERE SHE IS

Since Government-sponsored goons attacked Burmese democracy leader Aung San Suu Kyi and her supporters on a provincial road May 30, the Nobel Peace laureate has been in confinement and virtually cut off from the world. In editorials earlier this month urging that Aung San Suu Kyi be freed we asked, "Where is she?" Now we know—and the answer could hardly be more discouraging. According to the British Foreign Office, the corrupt generals who rule Burma moved her from a "guesthouse," where she had been held ostensibly for her own protection, to the notorious Insein Prison, a colonial-era monstrosity where old dog kennels have been converted to torture cells. The disclosure of the move came on Aung San Suu Kyi's 58th birthday—a nice touch, and well in keeping with the usual mode of operation of Burma's ruling thugs, who a few years back refused to allow Aung San Suu Kyi's husband to visit her even when he was dying of cancer.

Usual methods, yes, but other governments can no longer respond with their usual apathy. Burma is a beautiful, resource-rich nation of 50 million people, strategically located at the crossroads of India, China and Southeast Asia. Its largely Buddhist population, once among the best-educated in Asia, has fallen into poverty after a half-century of military misrule. Thirteen years ago the generals, misreading their subjects as dictators so often do, permitted an election—and Aung San Suu Kyi's National League for Democracy won more than four out of five parliamentary seats, even though she was under house arrest at the time. The generals nullified the election and kept the NLD leader under house arrest for most of the succeeding decade. They put hundreds of would-be parliamentarians and other NLD activists in prison. They continued to run the economy into the ground, while Burma's drug trade flourished and the generals enriched themselves corruptly.

Last year, under international pressure, the dictators released Aung San Suu Kyi and promised a dialogue leading toward democracy. But once again her popularity—freedom's popularity—seems to have surprised them. They cracked down more brutally than before, settled back to see whether the world cared—and so far seem to have seen little reaction that might worry them. On June 11 the Senate, led by Mitch McConnell (R-Ky.), voted 97 to 1 to cut off imports from

Burma, which would deal a blow to the generals, who control most of the economy. A companion House bill seemed to be making progress late last week. The White House and Secretary of State Colin L. Powell have issued some tough statements.

But actions of real consequence? So far, none. Southeast Asian foreign ministers, meeting last week in Cambodia with Mr. Powell, agreed to send a delegation to Burma no later than October. October? While one of the world's most courageous political leaders languishes in one of its most infamous jails? Where are Kofi Annan and the U.N. Security Council? Where are the executive orders that President Bush could issue today? "If the international community has the political will to stand for freedom in Burma, change can come to that beleaguered country," Mr. McConnell said last week. He's right. Inside Insein Prison, and throughout the larger prison that Burma has become, a lot rides on that "if."

[From the Wall Street Journal, June 12, 2003]

#### IT'S TIME TO TURN THE TABLES ON BURMA'S THUGS

(By Colin L. Powell)

WASHINGTON.—United Nations Special Envoy Razali Ismail has just visited Burma and was able to bring us news that Aung San Suu Kyi, a Nobel Peace Prize winner and the leader of a peaceful democratic party known as the National League for Democracy, is well and unharmed. The thoughts and prayers of free people everywhere have been with her these past two weeks. Our fears for her current state of health are now somewhat lessened. On May 30, her motorcade was attacked by thugs, and then the thugs who run the Burmese government placed her under "protective custody." We can take comfort in the fact that she is well. Unfortunately, the larger process that Ambassador Razali and Aung San Suu Kyi have been pursuing—to restore democracy in Burma—is failing despite their goodwill and sincere efforts. It is time to reassess our policy toward a military dictatorship that has repeatedly attacked democracy and jailed its heroes.

There is little doubt on the facts. Aung San Suu Kyi's party won an election in 1990 and since then has been denied its place in Burmese politics. Her party has continued to pursue a peaceful path, despite personal hardships and lengthy periods of house arrest or imprisonment for her and her followers. Hundreds of her supporters remain in prison, despite some initial releases and promises by the junta to release more. The party's offices have been closed and their supporters persecuted. Ambassador Razali has pursued every possible opening and worked earnestly to help Burma make a peaceful transition to democracy. Despite initial statements last year, the junta—which shamelessly calls itself the State Peace and Development Council (SPDC)—has now refused his efforts and betrayed its own promises.

At the end of last month, this rejection manifested itself in violence. After the May 30 attack on Aung San Suu Kyi's convoy, we sent U.S. Embassy officers to the scene to gather information. They reported back that the attack was planned in advance. A series of trucks followed her convoy to a remote location, blocked it and then unloaded thugs to swarm with fury over the cars of democracy supporters. The attackers were brutal and organized; the victims were peaceful and defenseless. The explanation by the Burmese military junta of what happened doesn't hold water. The SPDC has not made a credible report of how many people were killed and injured. It was clear to our embassy officers that the members of the junta were responsible for directing and producing this staged riot.

We have called for a full accounting of what happened that day. We have called for Aung San Suu Kyi to be released from confinement of any kind. We have called for the release of the other leaders of the National League for Democracy who were jailed by the SPDC before and after the attack. We have called for the offices of the National League for Democracy to be allowed to reopen. We are in touch with other governments who are concerned about the fate of democracy's leader and the fate of democracy in Burma to encourage them, too, to pressure the SPDC.

The Bush administration agrees with members of Congress, including Sen. Mitch McConnell, who has been a leading advocate of democracy in Burma, that the time has come to turn up the pressure on the SPDC.

Here's what we've done so far. The State Department has already extended our visa restrictions to include all officials of an organization related to the junta—the Union Solidarity and Development Association—and the managers of state-run enterprises so that they and their families can be banned as well.

The United States already uses our voice and our vote against loans to Burma from the World Bank and other international financial institutions. The State Department reports honestly and frankly on crimes of the SPDC in our reports on Human Rights, Trafficking in Persons, Drugs, and International Religious Freedom. In all these areas, the junta gets a failing grade. We also speak out frequently and strongly in favor of the National League for Democracy, and against the SPDC. I will press the case in Cambodia next week when I meet with the leaders of Southeast Asia, despite their traditional reticence to confront a member and neighbor of their association, known as Asean.

Mr. McConnell has introduced the Burmese Freedom and Democracy Act in the Senate; Reps. Henry Hyde and Tom Lantos have introduced a similar bill in the House. We support the goals and intent of the bills and are working with the sponsors on an appropriate set of new steps. Those who follow this issue will know that our support for legislation is in fact a change in the position of this administration and previous ones as well. Simply put, the attack on Ms. Suu Kyi's convoy and the utter failure of the junta to accept efforts at peaceful change cannot be the last word on the matter. The junta that oppresses democracy inside Burma must find that its actions will not be allowed to stand.

There are a number of measures that should now be taken, many of them in the proposed legislation. It's time to freeze the financial assets of the SPDC. It's time to ban remittances to Burma so that the SPDC cannot benefit from the foreign exchange. With legislation, we can, and should, place restrictions on travel-related transactions that benefit the SPDC and its supporters. We also should further limit commerce with Burma that enriches the junta's generals. Of course, we would need to ensure consistency with our World Trade Organization and other international obligations. Any legislation will need to be carefully crafted to take into account our WTO obligations and the president's need for waiver authority, but we should act now.

By attacking Aung San Suu Kyi and her supporters, the Burmese junta has finally and definitively rejected the efforts of the outside world to bring Burma back into the international community. Indeed, their refusal of the work of Ambassador Razali and of the rights of Aung San Suu Kyi, and her supporters could not be clearer. Our response must be equally clear if the thugs who now rule Burma are to understand that their fail-

ure to restore democracy will only bring more and more pressures against them and their supporters.

[From the Financial Times, June 25, 2003]

BURMESE MILITARY BRUTALITY CANNOT BE TOLERATED

(By Jack Straw)

Last week was Aung San Suu Kyi's 58th birthday. What should have been a day of quiet celebration with family and friends for the Nobel Peace Prize winner was instead spent in detention in a jail outside Rangoon.

The Burmese regime's claims that she is in "protective custody" after her supporters clashed with opponents on May 30 lacks credibility. We know from witnesses' accounts that thugs, armed and hired by the regime, ambushed Ms Suu Kyi and her supporters in a premeditated attack. Dozens of civilians were killed and injured, scores were arrested, many more are still in hiding. The regime has closed the offices of Ms Suu Kyi's National League for Democracy and detained party leaders and workers across the country.

Ms Suu Kyi herself was taken away by the military authorities. For some time, nobody knew where she was being held, or in what conditions. Last Thursday, the Foreign Office revealed that she was being kept in a two-room hut at the notorious Insein jail just outside Rangoon.

We understand that Ms Suu Kyi is being held under the most draconian legislation that the military authorities have at their disposal—Section 10(a) of the 1975 State Protection Law. This allows for her detention, without access to family or lawyers, for up to five years—with no prospect of appeal.

She has been isolated from her supporters, both inside Burma and beyond. Attempts by others, including Mike O'Brien, a Foreign Office minister, to get in touch with Ms Suu Kyi have been frustrated by the regime. She remains cut off and locked up. This is wholly unacceptable.

Far from Ms Suu Kyi's being in "protective custody", the only people being "protected" by her detention are those in the military regime itself. They hope that by keeping her—and the democratic movement—incarcerated they can cling on to power. The military government, which attempts to run Burma through fear and intimidation, is not only brutal but also corrupt and incompetent. A once prosperous country is being run into the ground. Poverty is rife and diseases such as malaria, tuberculosis and HIV/Aids are spreading.

In stark contrast to the Burmese military junta, and to their enduring fury, Ms Suu Kyi commands the support and respect of the Burmese people. Ever since her party won an election in 1990, the regime has harassed and intimidated Ms Suu Kyi and her supporters. She has already suffered long spells of house arrest and imprisonment.

Hundreds of her supporters are also in prison, many without trial. Others have been blackmailed or intimidated into giving up politics. But whenever and wherever she travels, ordinary people still turn out in their thousands to see and hear her. For them she is a marker of hope for a better future.

The UK, together with our partners in the European Union, the US and other members of the international community, are pressing the regime to begin a process of national reconciliation and democracy. Burma's neighbors too, especially its fellow members of the Association of South East Asian Nations, have been dismayed by the detention of Ms Suu Kyi and have called publicly for her release.

We welcome this international consensus. Regrettably, the Burmese regime shows a

cynical and blatant disregard for the views of others. It responds only to direct pressure. The EU has therefore decided to increase sanctions against Burma.

We have already applied an arms embargo and a ban on the sale of any items that could be used for torture or repression, on defense links and non-humanitarian aid. High-level contacts are also prohibited. We have already introduced an assets freeze and the EU has suspended Burma's trading privileges. The US has taken similar steps.

We have now agreed to take these measures further. Our ban on Burmese ministers visiting the EU will be extended to include senior managers of state-run enterprises and officials from organizations linked to the government. Further pressure will follow unless the regime moves rapidly to restore civilian rule and democracy.

The hopes and aspirations of the Burmese people cannot be frustrated. The spirit and justness of the democracy movement cannot be contained by violence or prison cells. We call on the friends of Burma, in Asia and around the world, to redouble their efforts to help Ms Suu Kyi and the people of Burma move toward national reconciliation, respect for human rights and the democracy they so richly deserve.

Mr. MCCAIN. Mr. President, the Washington Post editorial of July 14 says:

It's been a month since Secretary of State Colin L. Powell promised prompt action to penalize the generals he referred to as "the thugs who run the Burmese government." The time had come, he said in an op-ed article in the Wall Street Journal, to freeze their financial assets and ban remittances into Burma. But the administration has taken no such steps. It's been six weeks since the junta sent 3,000 vigilantes armed with wooden bats and sharpened iron rods, to beat and stab Aung San Suu Kyi's supporters as they traveled with her in the hinterland. [She] apparently escaped injury but was taken into custody and, except for one brief interview with a U.N. envoy, has not been heard from since.

And the United Nations? You might think the Security Council would have swung into action to demand freedom for one of the world's most courageous leaders and for her colleagues and to address the threat to regional stability posed by the increasingly erratic junta. After all, there is no dispute as to her legitimacy; the party she leads overwhelmingly won an election in 1990 but has never been permitted to take its rightful place in government. So far, however, the chief U.S. response has been the election of Burma—or Myanmar, as the generals call it—to the presidency of the General Assembly for the session that begins in September.

The Washington Post June 22, last year:

But actions of real consequences? So far, none. Southeast Asian foreign ministers, meeting last week in Cambodia with Mr. Powell, agreed to send a delegation to Burma no later than October. October? While one of the world's most courageous political leaders languishes in one of its most infamous jails? Where are Kofi Annan and the U.N. Security Council? Where are the executive orders that President Bush could issue today?

I appreciate very much, and I referred to, Secretary Colin Powell's article that appeared in the Wall Street Journal on June 12 and, on June 25, Jack Straw's article—the Foreign Secretary, as we all know, of our close friend and ally, England. He wrote:

Last week was Aung San Suu Kyi's 58th birthday. What should have been a day of

quiet celebration with family and friends for the Nobel Peace Prize winner was instead spent in detention in a jail outside Rangoon.

Far from Ms. Suu Kyi's being in "protective custody," the only people being "protected" by her detention are those in the military regime itself. They hope that by keeping her—and the democratic movement—incarcerated they can cling on to power. The military government, which attempts to run Burma through fear and intimidation, is not only brutal, but also corrupt and incompetent. A once prosperous country is being run into the ground. Poverty is rife and diseases such as malaria, tuberculosis and HIV/AIDS are spreading.

In stark contrast in the Burmese military junta, and to their enduring fury Ms. Suu Kyi commands the support and respect of the Burmese people. Ever since her party won an election in 1990, the regime has harassed and intimidated Ms. Suu Kyi and her supporters. She has already suffered long spells of house arrest and imprisonment.

Hundreds of her supporters are also in prison, many without trial. Others have been blackmailed or intimidated into giving up politics. But whenever and wherever she travels, ordinary people still turn out in the thousands to see and hear her. For them, she is a marker of hope for a better future.

He concludes by saying:

The hopes and aspirations of the Burmese people cannot be frustrated. The spirit and justness of the democracy movement cannot be contained by violence or prison cells. We call on the friends of Burma, in Asia and around the world, to redouble their efforts to help Ms. Suu Kyi and the people of Burma move toward national reconciliation, respect for human rights, and democracy they so richly deserve.

Mr. President, we need the Security Council to debate this issue. Our Ambassador and our Secretary of State should call for that debate. Our administration, following the passage of this legislation, should immediately implement Executive orders that can further put restrictions on our relations with this gang of thugs in Burma.

Finally, there are probably people who may be viewing this action by Congress today and the comments the Senator from Kentucky, Mr. McCONNELL, and I are making and saying: You know, Burma is a small country, far away. It is rise or fall. Its type of government has very little impact on the United States economically, culturally, politically, or militarily.

But I argue that that is not the case, particularly when we look at the flow of drugs and many other things that are happening in this country.

Why is it that these Senators are not talking about Iraq? Americans are dying—one a day—there. There is an unfolding scandal, or mini-scandal, about who knew what and when and why, and there is a great politicization of that. North Korea has threatened to develop nuclear weapons. Iraq apparently is doing that. Why isn't the Senate devoting their attention to larger issues that far more vastly affect the U.S. national security?

The answer is simple: This democracy movement in Burma is what America is all about. Over 200 years ago, in a very small country, a very

small movement for independence—which was given very little chance—took place in this country. If it had not been for the help of other countries—particularly France—the United States may have achieved its independence over time, but certainly not in the way that we did.

The PRESIDING OFFICER. All time for the majority debate has expired.

Mr. MCCAIN. I ask unanimous consent for an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, at the risk of redundancy, what is happening in Burma is what the United States is all about—our defense of freedom and democracy, even if it doesn't affect our national interest. That is what makes America different.

I argue that this administration, this Congress, and the American people will reconfirm their commitment to their freedom, democracy, and to one of the great heroic figures in history, and that is Madam Aung San Suu Kyi, who has the profound respect, appreciation, affection, and admiration of all who have encountered her and many who have not.

I yield the floor.

Mr. McCONNELL. Before the Senator leaves, I thank him for his passionate and insightful comments about the situation in Burma. No one has said it better. I also share his view that the U.N. ought to take up this matter. I wish to mention to my friend from Arizona that, in discussion with the special envoy, Mr. Razali, last week, he showed very little enthusiasm. The reason is that China might veto it.

I wonder if the Senator shares my view that I don't care whether China would take such an action, this needs to be discussed before the Security Council, debated among the most important countries in the world. Let the Chinese in public rationalize such an action if they are inclined to do so. I wonder if my friend shares my view on that.

Mr. MCCAIN. Mr. President, yes, I think if it is China's view that the Security Council should not take up an issue of basic fundamental human rights and democracy and wish to veto it, that is their right as members of the U.N. Security Council. But the fact is, that does not relieve the United States of our obligation to bring it up.

One other aspect. Since we have met with Mr. Razali on a number of occasions, up until our last meeting with the special envoy of the U.N., Mr. Razali, he was generally upbeat that things would get better in Burma, that some of the restrictions on Aung San Suu Kyi would be relaxed, and that we should take this moderate approach. In fact, there was even little criticism of the inclusion of Burma in ASEAN because that would bring them into the fold. Now they are facing the embarrassing prospect of, 2 years from now, Burma taking over the chairmanship of ASEAN itself. That is remarkable.

So it was very interesting to me that Mr. Razali, for all intents and purposes—from my impression of our conversation—has basically given up on the policy of sort of appeasement, bringing along the junta so they would become more democratic, et cetera. In fact, I think his statements, authenticated by events, indicate that that policy has been an abject failure.

Mr. McCONNELL. Mr. President, the Senator from Arizona is absolutely correct. This policy of engagement has been a total failure. That is part of what our bill is about today. It is to not only establish a leadership role for the United States but to lead the world in moving in a different direction.

The Senator from Kansas is here, and he also had a chance to meet with Mr. Razali and has made an important contribution to this debate. I believe we have enough time to accommodate not only Senator BROWNBACK but Senator LEAHY as well.

Mr. BROWNBACK. Mr. President—

Mr. LEAHY. Mr. President, will the Senator yield for a moment?

Mr. BROWNBACK. Yes.

Mr. LEAHY. Mr. President, I have an inquiry. How much time is available on this side?

The PRESIDING OFFICER. There are 11 minutes 9 seconds remaining.

Mr. BROWNBACK. Mr. President, I will not speak long. The Senator from Kentucky has covered this very well, as well as the Senator from Arizona. I think it is important that the Senate take up this resolution. It is an important time to do this and it is an important cause.

There are two narrow issues I would like to comment on briefly regarding the situation of the neighboring country of Thailand.

Thailand has been a strong ally of the United States for some period of time and has worked closely with us on a number of issues in which we have a strong interest in the region. Yet on this issue of Burma, Thailand has not been constructive. As a matter of fact, it has put forward a number of really quite negative comments.

The current Thai Prime Minister most distressingly has begun an assault on Burmese exiles living as refugees on the Thai-Burma border, which leads me to the next category on which I think we need to be pressing.

I have been to the Thai-Burma border. The exiles, because of the Burmese Government, have fled to the Thai border and are in refugee camps. They are subjected to all sorts of horrific conditions—living conditions that are not appropriate, sanitation conditions that are not appropriate, and then they are being trafficked, as people move through, trying to take young women and children into the sex trade that flourishes in Thailand and other places, but particularly in Thailand.

We have seen a rapid slave trade, trafficking in persons. Sex trafficking is taking place because of the Burmese Government and what they are doing,

and the complicity of the Thai Government of not dealing with this situation on the border, of not condemning those in the Burmese Government who are causing problems.

I rise in support of the bill introduced by the Senator from Kentucky. What is happening in Burma is an extraordinary situation. It is having huge human consequences in the region with people fleeing from the Burmese Government and who then are being trafficked, and we are not getting the help and support we need from a number of countries, particularly Thailand. This seems to be propping up the Burmese regime. This is something about which we should be very clear to our allies cannot continue.

I rise in strong support of the Burmese Freedom and Democracy Act of 2003. I urge its unanimous passage and world condemnation of what is taking place by the Government of Burma.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, if I may briefly say before the Senator from Kansas leaves, I thank him for having a hearing on the Burma situation and for being exceedingly involved and knowledgeable about this issue. I am sure he shares my view that this is going to be a long struggle. We are going to be dealing with this issue, unfortunately, next year when this certification process kicks in and we are back to reviewing the Burmese Government. I hope I am wrong. I hope by this time next year Aung San Suu Kyi is not only out of jail but in power. I would not bet on it.

I thank the Senator from Kansas for his important contributions.

Mr. BROWNBACK. I thank the Senator.

Mr. LAUTENBERG. Mr. President, I rise today to express my support for H.R. 2330, the Burma Sanctions bill.

It is a travesty that today, 55 years after the Universal Declaration of Human Rights and only weeks after fighting a war to liberate 24 million Iraqis, we watch the military junta in Rangoon violently and ruthlessly suppress the rights of the Burmese people.

The bill before us, like S. 1182, will send a strong message to the thugs running Burma that the U.S. Congress will not tolerate their abrogation of the rule of law.

The international community needs to follow suit. This is especially true with regard to Burma's neighbors—the countries of the ASEAN group—and the Security Council of the United Nations.

I would like to call attention to a July 14 Washington Post editorial that very clearly states the need for a unified, international approach to confronting the military junta in Burma. The editorial asserts that the United Nations must do more to push Burma toward reform and democratization. And it draws attention to the sorry fact that Burma has been elected to

provide the vice president of the United Nation's General Assembly for the session beginning in September 2003.

It is appalling that one of the world's most oppressive regimes has been chosen by its neighbors for a leadership role at the United Nations. This selection serves only to undermine the credibility of the United Nations and the General Assembly.

I support H.R. 2330 because I am a strong advocate for human rights and democratic governance in Southeast Asia and around the world. I call on my colleagues to pass this bill.

I also call on administration officials to raise the military junta's suppression of human and political rights—including the illegal arrest of opposition leader Aung San Suu Kyi and at least 17 officials of her party on May 30 when they meet with their ASEAN nation counterparts.

Finally, I urge the international community to stand up to the Burmese dictatorship. We must remain steadfast in our resolve to restore the freedom of the Burmese people. We need to send a message to these thugs that their brutal reign of oppression and terror does not go unnoticed and will not last.

Mrs. FEINSTEIN. Mr. President, I rise today to congratulate the House of Representatives for passing the Burmese Freedom and Democracy Act of 2003 and to urge the Senate to take swift action on the House bill to get it to the President's desk.

The 418-to-2 House vote to ban all imports from Burma is an important statement to support for human rights, the rule of law, and democracy in Burma.

Over 6 weeks have passed since Aung San Suu Kyi and several of her National League for Democracy colleagues came under attack by paramilitary thugs and were subsequently detained by the ruling military junta, the State Peace and Development Council, SPDC.

Since then, with the exception of a brief visit by the U.N. Special Envoy to Burma, Razali Ismail, Suu Kyi has been held incommunicado reportedly in the notorious Insein Prison.

The events of May 30 clearly indicate that the military junta has no intention of adhering to its commitment to engage the NLD in a substantive dialogue on political reform and national reconciliation.

Prompt Senate action will put the U.S. Congress firmly on record in support of Suu Kyi's immediate release and the legitimate democratic aspirations of the Burmese people as expressed by the 1990 parliamentary elections, decisively won by the NLD.

The only difference in the House bill as opposed to the Senate bill passed last month—a 3-year sunset on the sanctions—is acceptable, if not ideal.

Now, I call on the international community, in particular ASEAN and the United Nations, to follow Congress's lead and take action to bring pressure to bear on the SPDC.

A united effort is critical for sanctions to be most effective. The regime must know that the world speaks with one voice and its days are numbered.

I urge my colleagues to support the House bill so that the President can sign it into law.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, while both the Senator from Kansas and the Senator from Kentucky are on the floor, I want to take a minute to praise them for their outstanding statements. I strongly support the Burmese Freedom and Democracy Act that Senator MCCONNELL, Senator FEINSTEIN, and others have introduced and shepherded through the Senate earlier this year.

I have lost count of the number of times my good friend from Kentucky has come to the Chamber to send an important message to the very brutal and very corrupt regime in Burma. Senator MCCONNELL's message has been: Your conduct is outrageous. It should not be allowed to stand. Aung San Suu Kyi is the democratically elected leader of Burma, and she and her fellow opposition leaders must be immediately released.

The Senator from Kentucky and those who join with him are absolutely right. Our country, the greatest democracy history has ever known, must stand for democratic principles around the world. This legislation helps the United States do just that.

Since the McConnell-Feinstein legislation was introduced—and passed by the Senate 93 to 1, something we do not see too often around here—it has helped send a clear signal to the administration, ASEAN members, and the international community that we need to increase the pressure on the illegitimate regime in Burma.

We have seen some good first steps taken by the State Department, including a ban on remittances, expansion of visa restrictions, and a strong statement by Deputy Secretary Armitage on Friday.

But, U.S. action can only go so far. There has to be active pressure from Burma's neighbors in Southeast Asia. I single out Thailand, Japan, and China. These nations have to disavow what we all know has been a failed policy of engagement.

In many cases, engagement can be a good thing. In many cases, engagement can help resolve difficult international issues. This is not one of those times.

Mr. President, I am glad to see some positive developments have occurred on this issue in Asia. The ASEAN nations have taken the unprecedented step of expressing concern with the situation in Burma. The Japanese have suspended some forms of aid to the regime.

But that is not enough. Other leaders in the region have to make unequivocal statements saying what we in the United States Senate are saying: Aung San Suu Kyi is the democratically elected leader of Burma and the military junta has to release her and her followers.



The world needs to do more. The U.N. has to become more involved. The Security Council should be briefed by U.N. Special Envoy Razali Ismail on the situation in Burma and Security Council action should be seriously considered.

My purpose in speaking, obviously, is to support this legislation. However, I wanted to take a moment to praise the deep and personal effort by the Senator from Kentucky on Burma. He has shown courage, but, perhaps more importantly, he has demonstrated tremendous persistence in keeping our attention focused on Burma. Sometimes we forget some of what we say is heard and has an impact in other parts of the world. In some cases, it may not be made it back to our own States, but it is heard in the parts of the world where it makes a big difference. This is one of those times.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the Senator from Vermont for his kind comments on the Burma bill and appreciated his forceful advocacy of passage.

In terms of the parliamentary situation, is there time left on the Burma bill on both sides?

The PRESIDING OFFICER. That is correct.

Mr. MCCONNELL. I am prepared to yield back the time that remains on this side if the Senator from Vermont would do the same.

Mr. LEAHY. I will do the same. Should we ask for the yeas and nays?

The PRESIDING OFFICER. All time is yielded back.

Mr. MCCONNELL. Do we need to ask for the yeas and nays on the Burma bill?

The PRESIDING OFFICER. That would be appropriate.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the question is on the third reading of the bill.

The bill (H.R. 2330) was ordered to the third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on passage of the bill at a time determined by the majority leader, after consultation with the Democratic leader.

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2658, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 2658) making appropriations for the Department of Defense for the fiscal

year ending September 30, 2004, and for other purposes.

Pending:

Dorgan amendment No. 1264, to require from the President a budget amendment for the budget for fiscal year 2004 on the amounts requested for military operations in Iraq in fiscal year 2004.

The PRESIDING OFFICER. There will now be 30 minutes equally divided in relationship to amendment No. 1264 by Senator DORGAN.

Who yields time?

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time of the quorum call not be charged either to the Republican or Democratic side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my understanding is there is a 30-minute timeframe on my amendment.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Mr. President, let me indicate I have just been sitting with my colleagues, Senator STEVENS and Senator INOUE, discussing this amendment. I want to discuss just for a moment why I have offered this amendment and then indicate that I think we have a responsibility here in the Congress to try to understand how much these operations in Iraq and Afghanistan and other areas of the world cost us and how we plan to pay for them.

Before I do that, let me say the chairman of this subcommittee and the ranking member, two Members for whom I have the highest regard—and I happen to serve on this subcommittee—have distinguished military records. The ranking member has the Medal of Honor. The chairman flew over the hump in China during the Second World War. He has a very distinguished record. I very much appreciate working with them. They have done an extraordinary job with the piece of legislation brought to the floor of the Senate to fund our defense needs.

I visited Afghanistan during the past year or so. I have not visited Iraq. But I happen to think what we have done, with the wonderful men and women who wear America's uniform, is kick the Taliban out of Afghanistan and free the people of Afghanistan. What we have done is to drive underground—at this point—Saddam Hussein and liberate the people of Iraq. It has been done by very brave, courageous, and wonderful young men and women, and with equipment which is funded by this subcommittee.

I know my colleagues likely have done what I have done. They have visited the site where they are producing a little airplane called the Predator. It

is not much bigger than a little Piper Cub. It flies at about the same speed. It is a little airplane without a pilot which sits up there for nearly a day and flies around the battlefield and with a sensor can give you a vision of exactly what is on the battlefield, and you have someone sitting in Florida watching a television monitor seeing what is on the battlefield in Afghanistan or Iraq. It is really breathtaking technology which is being used.

The Predator is low tech. The Global Hawk does the same at multiples of altitude. The Global Hawk is also an unmanned aerial vehicle that has been used extensively in both theaters.

Those are the kinds of new technologies that are really quite remarkable—the technologies that are funded by this subcommittee.

In addition to the technology, weapons, and air assets and ground assets, the soldiers themselves are quite extraordinary. I appointed a young man to the United States Naval Academy, Jason Frye, from Hazen, ND. Jason Frye was recently at the Bethesda Naval Hospital. In fact, Senator INOUE called Jason on Friday. He is a young marine who was in Iraq. He had part of his arm blown off by a rocket-launched grenade. When I went to visit him at the Bethesda Naval Hospital, he was worried about his unit. He wanted to be back with his unit. He wondered how his unit was doing in Iraq. This young man had a battlefield injury. They had to use the cord from the radio in his Humvee to wrap around his arm as a tourniquet to stop the bleeding. He got medical attention at a field hospital in Iraq.

What a remarkable young man. He is a symbol of all the young men and women who answered the call and have done their duty. Our thoughts and prayers are with them. Our hearts go out to those who have been injured and killed, and to their families.

This piece of legislation is extraordinary. It was introduced by two remarkable legislators. I am pleased to be a part of the subcommittee that supports our national defense needs and supports the men and women who serve this country.

The amendment which I have offered says there is kind of an illusion going on with respect to the cost of what we are doing in defense. It is not a deliberate illusion by anyone. It is this:

We are spending about \$3.9 billion a month in Iraq at the moment—almost \$4 billion. We are spending nearly \$1 billion at the moment in Afghanistan. Those are the costs of the ongoing activities in both countries. Both of these activities are very important.

If we are spending about \$5 billion a month—an annualized rate of about \$60 billion—the question is, How will all of that be funded? Some of it is funded in this legislation. The salaries of the soldiers who would be stationed at Fort Sill, or Fort Lewis, or some other post, we would be paying those salaries anyway. Now they are in Iraq. They are being paid in Iraq.

The question is, What are the extra costs in the \$5 billion a month we are spending to be in these two theaters, Afghanistan and Iraq?

The answer is, we don't know. The President likely doesn't know. The OMB and the DOD do not know. But the Pentagon's chief financial officer said last week they have a "pretty good sense" of what is going on on the ground for next year. Obviously, they have some planning. My expectation is we will have substantial numbers of troops on the ground in Iraq for some long while. It is not unlikely that we could see more troops going to Afghanistan at some point. If they have a good sense of what is going on on the ground, we ought to plan for that.

I respect the fact that some would say we don't know what this is going to cost next year. We know the answer is not zero. My only concern, as I indicated to the Senator from Alaska, the chairman of the subcommittee, is I don't want us to be in a situation where each spring we have to produce larger and larger supplemental appropriations bills. I would prefer we do some planning. It is certainly true, as the chairman pointed out, that we have been doing this for a long time, but not in the theaters of Bosnia, Kosovo, and others. I understand that. But these are larger numbers. We have not been confronted with \$4 billion a month, and then another \$1 billion on top of it, or \$5 billion a month. We have never done this. We have never done this at a time when the front pages of the newspapers say we have a Federal budget deficit of \$450 billion. It is a different time. We face different circumstances.

My point is we know what the answer for the cost of these operations next year is not. It is not zero. It is something. The question is, What? If the comptroller at the Pentagon has a pretty good sense of what is going to be on the ground in the next fiscal year, I would prefer we get a sense of what that is and try to plan for that and estimate that in our regular appropriations bill.

I understand the difficulty. I understand why in previous years we have always said, Well, let us just wait; we will see what the Pentagon spends on it. We will add it up and replace it in a supplemental appropriations request. I think this is a different set of circumstances.

I know there is disagreement in the Chamber. I think we are going to be in Iraq for some long while. We have been in Afghanistan for some while now. The troop strength has been drawn down. But I think there are some storm clouds over Afghanistan. I worry a great deal about what the needs are going to be there and how to solidify and maintain what we have achieved in Afghanistan.

My own feeling is we would be better served at this point as we try to produce a final piece of legislation on Defense appropriations if we would have a supplemental amendment that

says here is what we think we will need in the coming fiscal year for these operations.

Again, if the comptroller at the Pentagon has a pretty good sense of what is going to be on the ground, they very likely have documents that tell them, at least, and perhaps us, what they think they will need. Is it accurate? I do not know. But again, I know zero is not the starting point.

Having said that, I offered an amendment that asked the President to send us in 2 weeks a budget amendment giving us the information the Pentagon apparently has in terms of having a "pretty good idea" of what is going to be on the ground for the next fiscal year and tell us what those costs will be above that which already exists.

The chairman makes a point that money previously appropriated in a supplemental is available—a \$60-plus billion supplemental, \$30-plus billion of which was to replace money taken from previous accounts.

If there is money available, how much above that will be required for expenditure, and do the comptroller at the Pentagon and others know what their estimate might be of what our costs will be in the coming fiscal year? That is what my amendment is requesting.

I have visited with the chairman and ranking member about my amendment. I wanted to make the comment that I, on a general basis, believe this bill is an extraordinarily good bill. The work of the chairman and ranking member is, in my judgment, some of the best work in the Senate. I am proud to be a member of the subcommittee. I believe we ought to find a way to do this differently with respect to major theaters of operations in the annual spring request with respect to very large and larger supplementals each year.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Alaska.

Mr. STEVENS. Madam President, I strongly oppose Senator DORGAN's amendment. The Secretary of Defense has testified that the cost for this last month was \$3.9 billion in Iraq and \$900 million in Afghanistan. As was stated, we provided, in a supplemental, \$62.6 billion in late April. By the time it was available, it was May. And \$30-plus billion, as the Senator said, went to pay costs that had already been incurred in moving our forces to Iraq.

But the Senator's proposal would instruct the President to submit a fiscal year 2004 budget amendment for the cost of the war in Iraq. Congress has not and should not instruct the President to submit such an amendment. As a matter of fact, Congress should not instruct the President to request funds now for future contingency military operations. We have opposed that concept in the past. We have not done it, and we should not start now.

We only need to review the recent history of financing military contin-

gencies to know this would be a dangerous precedent. Just take into account that the number of times the Congress has directed a President, any President, to submit a budget to pay for future operations is zero. We did not do it in Desert Storm. We did not do it in Somalia. We did not do it in Haiti. We did not do it in Bosnia. We did not do it in Kosovo. We did not do it in Afghanistan. And we should not do it now. The reason is clear: because to try to estimate contingency costs in the future would lead us to creating contingency funds, which could be spent in any way the Department wants them.

Any submission would be inaccurate because the operational situation could change repeatedly during any time in the future. The Department does not know how much it might need for Iraq. They do not know what accounts they might need it in. That depends on the strategy that evolves as we deal with the situation in Iraq.

I personally believe the costs in Iraq are coming down. Slowly but surely, they are coming down. The amendment would force the administration to request a large, unspecified fund from which they would transfer money to pay for whatever contingency developed. We denied that. We denied that this year. The administration made such a request and we said no, we will not do that. That would only reduce congressional oversight and would give the Department of Defense a blank check.

I asked the Congressional Research Service to look at this matter and tell us how we budgeted for wars in the past. I quote from the CRS report:

Presidents have not requested and Congress has not provided funding for wars in advance [never]. Rather, administrations have requested . . . and Congress has subsequently appropriated money to meet specific, documented budget requirements.

That is what the O&M account is for. Presidents use the O&M account. We subsequently get their requests to add money and replace it in the accounts from which they have taken it. They show us what they have spent it for, and we go ahead and budget after the amounts have been determined.

In keeping with longstanding practice, the Department did supply us, in the President's submission, a peacetime budget for fiscal year 2004. That is for the ongoing baseline programs of the Department of Defense. It is not a wartime budget. As operational requirements change, we will see such a budget. Funding war costs separately, and in a supplemental, if necessary, makes the costs visible to Congress and ensures we do not distort the baseline funding.

We believe the Department will be able to define what the costs are when they determine what they are going to do. As they spend their money, they will come to us with fully explained, well justified, reasons for their expenditures of the moneys they have, and we will replace those moneys.

I do oppose Senator DORGAN's amendment. If he is going to present it as it is currently before us, I will move to table it.

Again, let me say, as I did yesterday, Congressman YOUNG and I did meet with the President about the problem of the total amount of money in this bill for defense and other matters, and we took \$3 billion out of the President's 2004 request. His budget request has been reduced by Congress, and this amendment would require him to submit us a supplemental now to pay for costs for Iraq.

We have already agreed, in effect, that the money the President has now, the Department of Defense has now, should fund the requirements of Iraq until we determine what permanent relationships there will be there. Hopefully, that will be done by early next year, and we will know. As these account amounts decline—and I believe they will—they should not average more than \$2 billion a month, in my opinion, for this calendar year. If that is the case, there will be money left in the supplemental that has already been passed and adopted by the Congress and accepted by the President.

I believe we should follow the tradition of appropriations and handle money for defense based upon a firm understanding of what the costs are, not upon predictions of what the costing will be when we are at war. We deal with a prediction budget in the overall concept of 2004. Every year we get the President's prediction of how much money needs to be spent and will be spent in the coming fiscal year, and based on that prediction we provide money.

Wartime expenses have always been treated differently. No President has asked for money in advance, no President has ever received money in advance for a wartime budget. They have had concepts, like the supplemental we passed for 2003 to carry through in terms of the 2003 actions which will carry into 2004. And we will get a supplemental for 2004 when the time comes, if that is necessary.

I yield the remainder of my time to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Madam President, listening to my chairman reminded me of my days of youth. During World War II, when I was a young man, I had the high honor of serving as platoon leader of 40 men. It was a small part of the war. But if someone had come up to me, say, my colonel, and said: How many men will you lose in the next 30 days? How many rounds of ammo will you use during the next 12 months? How many grenades will you explode during the next 12 months?—my answer would have had to have been: I don't know. There is no way of knowing how many men I will lose in this battle or the next battle. I have no idea how many rounds we will fire or how many grenades we will throw. We will do our best to maintain our force.

But to require any commander to come forth with even a good guess as to what one can anticipate—who in his right mind could have predicted what Midway would turn out to be like or the battle of Guadalcanal? No one had any idea. We had contingency plans as to how we should cope with the enemy if it came from the northern slope or the southern slope, but as for the outcome, we went into a battle once that lasted 5 days and we thought we would come through with minimal casualties. In those 5 days, we incurred 800 casualties in my little regiment, 300 dead—in a battle we thought we could resolve in 3 days. But we had no idea the opposing forces were three times our size.

I realize my colleagues are very eager to know what the costs of this war will be. Senator STEVENS and I would like to know that also because we are in charge of bringing forth to this body our recommendations on what to spend. Frankly, we have no way of knowing. We can make a calculated guess. We tried to do that the last time, and we did not succeed. So we have called upon the administration to do their best. And when the time comes they need supplemental appropriations, we will consider that, and we will inspect and just look over every account. Keep in mind, if it is going to be a calculated guess, we have no way of conducting oversight. So I hope my colleagues will be a bit more patient with us.

I realize that it may pay political dividends in some cases. But in this case we are dealing with the lives of men and women. I hope that in dealing with the lives of men and women, we will make certain that we conduct the affair in the best way possible.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota.

Mr. DORGAN. Madam President, we find much to agree about, as a matter of fact. We do not fund wartime budgets in advance because we don't know what a war will cost. There is no disagreement on that score. We do not have a wartime budget, and we do not have an appropriations bill in front of us that deals with the cost of war. We agree with that.

In fact, all of us know the President indicated the war in Iraq was over. We understand at this point we have had some difficulty restoring order completely and there is some violence occurring in Iraq, but most of our troops in Iraq are not fighting. Most of the troops in Iraq are engaged in some kind of peacekeeping and restoration of order.

The point I was trying to make is this: This country always supports its troops and does so very aggressively, and no one will question whether that is the case. This subcommittee does that and does it aggressively. If we find in Iraq and Afghanistan—two theaters in which we have been engaged for some while—that troop strength in

those areas remains about the same level as it has been and we are spending about \$5 billion a month, my understanding is somewhere near the end of this year we will be about out of money, and we will be taking money from other accounts.

So there will be 9 months left in the next fiscal year. If they continue to spend money at that level, we are talking about \$40 or \$50 billion. The chairman says he expects that not to happen. I hope it does not happen. I hope we are not confronted with that choice.

My point is, if the Pentagon at this point understands some notion about what kind of troop strength they intend to have for some long while in Iraq or Afghanistan, then we should understand how we prepare and plan for paying for it.

We now face a very large Federal budget deficit. Frankly, we don't have a choice in dealing with these issues. We must pay the bill. We can't commit our sons and daughters to a war, send them overseas, whether they are restoring order or keeping peace or actually war fighting, we can't do that and say: We will not provide everything you need to be successful. That is what this subcommittee has always done under the leadership of the chairman and ranking member.

It is important for us to understand that we have a \$450 billion estimated budget shortfall. It is growing by leaps and bounds. The point I am trying to make is that we are likely to face much larger expenditures in the coming 12 months to meet our military needs, and they do not exist in this bill.

The chairman has explained properly that in the past we have never required it to be a part of this bill. He indicates it is because we don't fund wars in advance. I say that we are not at this point in an active war in Afghanistan or Iraq. The war is over. The columns of humvees and tanks and mechanized vehicles moving into Iraq have stopped. Now there is a different circumstance. It is heartwrenching some mornings to hear of the attacks on American troops. But most of what is happening in Iraq is the restoration of order and the peacekeeping. It seems to me that if we are going to be there for some while, it makes sense for us to evaluate what the Pentagon thinks. They are finding documents and they are talking about them. What will that cost? And then ask the President to submit that to us along with his vision of how we deal with that, how we pay for it.

My colleague indicated we would have to fund it. Look, this is part of a broad set of priorities. Yes, this has to be funded but how? What are the consequences of it and how and where does it come from?

My point is not to cause angst to the chairman and the ranking member. If we are going to be involved in longer term theater operations that are not wartime operations but require the commitment of troops—140,000 troops

in Iraq perhaps, 20,000, 25,000 troops in Afghanistan, and that may increase—if we are going to require the placement of troops in these theaters for some longer period of time, if we have longer anticipated costs, we ought to figure out what those are and put them in the regular appropriations bill. That is the point I am making. We just have a disagreement about that.

To me, it is just about where we find ourselves in fiscal policy, what the requirements are with respect to military policy, and whether we can find a way to more orderly anticipate the future costs that we almost certainly know, and the Pentagon has some notion, and trying to respond to those and deal with them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, it is beautiful, the way my colleague from Hawaii remembers things that happened in his own life and puts in perspective what we are dealing with. I hope the Senate listens because the problem that the Senator from Hawaii had as a platoon leader is exactly the problem the Commander in Chief has right now: How much are they going to spend and where are they going to spend the money.

The Senator from North Dakota wants us to tell the President, submit a budget to tell us how money will be spent, and we don't know what the plan is because the contingencies are so great.

Let me mention to you what we have just come through. We originally intended to send part of our forces into Iraq through Turkey. When we found out we had a difficulty there because of the change in administration in Turkey, we had to take those troops out, send them back through the canal and then come back up through the Persian Gulf into Kuwait.

Could we have anticipated those costs? Could the President have submitted us a budget for that operation? Absolutely not.

One of my tasks is to handle the appropriations bills and try to assist in handling the funding for our executive branch and all branches of the Government. But one thing continues to bother me about the emphasis on the current deficit. It is big. It is going to get bigger. Do you know why? Our whole economy is getting bigger.

When I first came to Washington, I had a mortgage of about \$45,000. I sort of choked about that. My God, how could I do that? Our income at the time was \$30,000 a year. I thought, this is a pretty tough thing but we had to have a house for our family of seven. Now our mortgage is 10 times that. Do you know why? My income has expanded.

The same thing has happened to our Nation. Our overall gross domestic product is so large that \$450 billion, \$500 billion is not as great as the deficit was at least 3 years of the Clinton ad-

ministration. Percentage-wise we have to start thinking about what the debt is and how it relates to overall economic activity. I hope one of the joint economic committees will come forth and explain this deficit to us. It is bad. I don't like high deficits. I don't like to owe a mortgage either.

I hope the Senate will concentrate on what we are spending and not what the size of the deficit is right now. We want to hold down expenses. I think the best way to hold down expenses is to follow the precedent we have followed in every war to date.

I am reading a book right now about the revolutionary period and how Washington tried to get the Continental Congress to give him money. He was forced to spend money and then have them help him pay for it. We borrowed money around the world, particularly from France in those days.

You talk about a deficit; my God what the Continental States must have had in terms of a deficit. Somehow or other, the country survived based upon faith and trust in the system.

The system we have followed so far is that we do not fund wars in advance. I hope the Senate will defeat this amendment.

Does the Senator have any further time?

What is the time situation?

The PRESIDING OFFICER. The Senator from Alaska has 10 seconds remaining.

Mr. STEVENS. How much time on the other side?

The PRESIDING OFFICER. There is no time on the other side.

Mr. STEVENS. Madam President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Under the previous order, that vote will occur later, and the order of the stacked votes will be determined by the leaders; is that correct?

The PRESIDING OFFICER. The order has already been determined. This amendment is first.

Mr. STEVENS. I thank the Chair.

AMENDMENT NO. 1268

The PRESIDING OFFICER. All time having expired, the Senator from New Mexico, Mr. BINGAMAN, is now recognized to offer an amendment on which there shall be 40 minutes of debate equally divided in the usual form.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. Madam President, I send an amendment to the desk on behalf of myself and Senators SPECTER, DASCHLE, BYRD, LEAHY, LEVIN, ROCKEFELLER, CORZINE, DURBIN, and CARPER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. SPECTER, Mr.

DASCHLE, Mr. BYRD, Mr. LEAHY, Mr. LEVIN, Mr. ROCKEFELLER, Mr. CORZINE, Mr. DURBIN, and Mr. CARPER, proposes an amendment numbered 1268.

Mr. BINGAMAN. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a report on the individuals being detained by the United States Government as enemy combatants)

Insert after section 8123 the following:

SEC. 8124. (a) REPORT ON INDIVIDUALS DETAINED AS ENEMY COMBATANTS BY UNITED STATES GOVERNMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the individuals being detained by the United States Government as enemy combatants.

(b) ELEMENTS.—Except as provided in subsection (c), the report under subsection (a) shall set forth the following:

(1) The name and nationality of each individual being detained by the United States Government as an enemy combatant.

(2) With respect to each such individual—

(A) a statement whether the United States Government intends to charge, repatriate, or release such individual; or

(B) if a determination has not been made whether to charge, repatriate, or release such individual, a description of the procedures (including the schedule) to be employed by the United States Government to determine whether to charge, repatriate, or release such individual.

(3) With respect to each such individual who the United States Government intends to charge, the schedule for the filing of the charges and the trial of such individual.

(c) CLASSIFICATION OF CERTAIN INDIVIDUALS.—(1) If the Secretary determines that the inclusion of an individual in the report under subsection (a) would harm the national security of the United States, the Secretary may include such individual in a classified annex.

(2) Determinations under paragraph (1) shall be made on a case-by-case basis.

(3) If the Secretary determines to omit one or more individuals from the unclassified form of the report, the Secretary shall include in the report an explanation of the omission of the individual or individuals.

(d) FORM.—The report under subsection (a) shall, to the maximum extent practicable, be submitted in unclassified form, but may include a classified annex.

(e) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committees on Armed Services and the Judiciary and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The term "enemy combatant" means—

(A) an individual held under the authority of the Military Order of November 13, 2001 (Volume 66, No. 222, pages 57833–57836 of the Federal Register); or

(B) an individual designated as an enemy combatant and held under other legal authority.

Mr. BINGAMAN. Madam President, I came to the floor two days ago to express my concern about the administration's detention policies with respect to three different categories of

individuals, and this is particularly in the period since 9/11.

One of those groups I spoke about was immigrants. There, of course, the concern has been underscored by the report done by the inspector general in the Department of Justice pointing out the abuses that have been engaged in by both the Department of Justice and the FBI with regard to immigrants after the 9/11 tragedy.

Another group I spoke about were material witnesses. There have been several abuses there. In some cases, I think the FBI has acknowledged that. I think, again, we have a serious issue there of adequate attention to civil liberties and human rights.

The third group I spoke about is the group designated by the Department of Defense and the President as so-called enemy combatants. That is a group my amendment deals with today.

The amendment is very straightforward with regard to these individuals. It requires a report. It says to the Department of Defense, the Secretary of Defense, give the appropriate committees of the Congress a report within 90 days of the time this law becomes effective. The report shall indicate who these people are that the administration has designated as enemy combatants, and it shall tell us what plans the Department has with regard to charging these individuals with crimes, with regard to trying them for those crimes, and if there is an intention to repatriate some of these individuals to particular countries, to please advise us of that, but tell us something about who these individuals are and what you intend to do with them. That is the thrust of the amendment.

There is a proviso in the amendment that says if there is a national security problem that the Department or the Secretary of Defense sees in giving us any of this information, of course, that doesn't need to be included in the unclassified version of the report. That could be kept in a separate, classified annex and assigned whatever classification the Secretary determines is appropriate.

The administration is holding 3 individuals today—that I am aware of—in the United States as enemy combatants and is holding close to 700 at our military base in Guantanamo Bay, Cuba. In all cases, these individuals are being called *incommunicado*. They are given no access to counsel and no opportunity for judicial review as yet.

Let me say what I think should be obvious to everybody, and that is that I am not advocating that these individuals be released. What I am saying is that we should afford them the right to be charged with a crime. Tell us what action they have taken that justifies their incarceration, and set up some opportunity for them to be tried for those actions. Many of these enemy combatants have been in custody by our Government for well over 18 months—in some cases over 20 months.

President Bush announced recently—in the last 2 weeks—that 6 of the 700 or

so of these enemy combatants will be tried by a military tribunal. As far as I know, there has been no indication yet as to what they will be tried for. There is no indication yet, or designation, or appointment of a military tribunal or commission to do the trying of these individuals. There has been no date set for these trials. But the President has said that 6 of the 680 or 700 individuals are eligible—I believe that is the phrase used by the Department of Defense and the White House—to be tried by military tribunals.

There are serious questions about how those tribunals will function, and I am sure there will be many debates about that. Even more serious is a question relating to those who remain in jail, who have not—as yet at least—been given any indication of charges, any indication of when trials might be conducted in relation to them.

The obvious question we need to be asking—we in the Congress—since we have an oversight responsibility over the administration, the executive branch, is, Where does the Government or this administration intend to go with regard to these individuals?

So far, the administration takes the position that once the President says someone is an enemy combatant, they can keep them incarcerated, presumably until the war on terrorism is over. But the President has said—and I think he is probably right—this war on terrorism is of indefinite duration; it is not a war that we can see the end of—at least not in the near future. It appears to be the President's view and the administration's view that these individuals can be kept as prisoners from now on, without the administration having an obligation to say who they are, without the administration having an obligation to charge them with a crime, without the administration having any obligation to afford them a hearing.

The administration takes the view that they do not come under the Geneva Convention, but evidently they come under none of the other procedural requirements that we have always thought applied in our system either.

In my view, this is not a tenable position. It is not consistent with the commitment to liberty and the rule of law on which this country was founded. We demand that other governments show greater respect for human rights than this, and we should be demanding better from our own Government as well.

The amendment is very straightforward and very modest, in my view. It simply says that the Secretary of Defense shall provide us with a report on the status of these detainees—provide that to the relevant committees of the Congress. Under the amendment, the report should include the name and nationality of the individuals involved, a statement as to whether our Government intends to charge them with some offense, or intends to repatriate them, or intends to release them—

whatever action we intend to engage in.

There is nothing in the amendment that biases what is done with these individuals in any way. In the case of the individuals for whom such a determination has not been made, we ask for a description of the process the Department of Defense is intending to follow and the timeline for actually making a decision regarding these individuals.

Madam President, I believe strongly that we have an obligation to require some accountability with regard to this set of individuals.

We have made provision in the amendment, as I said before, so that the Secretary can withhold any information from any report he deems to be information necessary to withhold for national security reasons.

The administration, in my view, needs to take some action and needs to advise the Congress on what it is doing with these people. If the individuals have committed crimes, let's see them charged with crimes. If they have not committed crimes, let's see them repatriated. Let's see some action taken. We in Congress need to understand what that action is. That is the thrust of the amendment. I hope it will receive broad bipartisan support.

I appreciate Senator SPECTER cosponsoring the amendment, as well as the other Members I mentioned. I believe there is at least one other Member who wishes to speak in behalf of the amendment. So I reserve the remainder of my time.

Mr. LEAHY. Mr. President, the distinguished Senator from New Mexico, Mr. BINGAMAN, has an amendment which would require the Department of Defense to share with the relevant congressional committees information about those who are being held as enemy combatants. I am pleased to cosponsor this amendment.

The amendment safeguards any national security concerns by authorizing the Secretary of Defense to provide this information in classified form where national security requires it. It is a cautious amendment. It does not force the administration to change the way it designates or treats enemy combatants, but merely secures the ability of Congress to carry out the oversight that our laws, our Constitution, our traditions, and our practice require us to do.

Although the cases involving enemy combatants detained within the U.S. have been well publicized, we know very little about those who are being detained in Guantanamo Bay. Because they are held outside U.S. territory, the courts have found they do not have the power to review their detention. I do not doubt some of these detainees are dangerous individuals who wish the United States harm, but doubts have been raised on behalf of some of these detainees, and I think the Congress should have the information necessary to make judgments about this situation.

I hope this amendment will be adopted. It will make the Department of Defense to make decisions more quickly as to whether to charge many of the individuals it is currently holding. No one advocates haste that will compromise ongoing intelligence gathering or hurt our national security, but at the same time, the United States cannot be in the position of indefinitely detaining individuals without charging them with any wrongdoing. That is inconsistent with United States traditions and will continue to cause us difficulty in our relations with the nations of citizens who are being held, ranging from Pakistan to Great Britain. It also puts us in a difficult situation when we tell other countries not to do what we are doing.

Indeed, according to the New York Times, the President's decision to certify two British nationals for trial before a military tribunal created friction between our two nations, as Prime Minister Blair arrives to address a joint meeting of Congress tomorrow.

Let me be clear, this amendment does not require any enemy combatant to be charged, let alone released, but it does ask the Secretary of Defense to explain where the investigatory process stands in the case of each detainee.

Finally, I hope this amendment will encourage the administration to make decisions about what charges he intends to bring, if any, against Jose Padilla and Yaser Hamdi, U.S. citizens currently being held indefinitely without charge in the United States. Their detentions have raised grave legal questions, and it is deeply discomfiting to see in this case American citizens held indefinitely, in a legal twilight zone, without access to counsel or those protections to which we believe U.S. citizens are generally entitled, and also those protections that we preach to the rest of the world we uphold and we ask them to uphold when one of our citizens is being detained in their country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, soon after the war in Afghanistan started, I joined with others to go with Secretary of Defense Rumsfeld to Guantanamo Bay to assure ourselves that the Department of Defense is complying and will comply with provisions of the Geneva Convention with regard to the treatment of prisoners who are held at Guantanamo Bay and other places arising from that war.

It is my understanding the individuals who are detained are those who have participated in the battles in Afghanistan against our soldiers, and those who are, at the request of the Department of Justice, held for suspected terrorist activities in the United States in the war against terrorism.

The Department of Defense does not have control over these personnel. I believe they are really under the jurisdiction of the Department of Justice. I do

not intend to make any kind of point of order based on legislation. I think we should just face this directly.

I think the concept of Senator BINGAMAN's amendment is directly contrary to what we should be doing with regard to activities of people who have conducted themselves as enemies of the United States in war and those who are involved in the terrorist activities as part of the terrorist war against the United States.

Placing a requirement that we disclose and give a schedule as required by this Bingaman amendment is totally contrary to the best interests of the United States. It would place an unwarranted pressure on the administration to decide on charging and prosecuting enemy combatants prior to completion of intelligence and law enforcement analysis.

These people in Guantanamo Bay were held incommunicado from one another. One of the reasons was the concept of the knowledge of who else was detained might deter one of these people from giving us the information we needed to find the leaders in the war on terrorism against the United States.

The process of investigation is a very long and tedious one. These people use different languages. We found they are using names and declaring they are from countries that are totally untrue. The real problem is how to deal with these people in a way to end the war in Afghanistan and to end the war on terrorism.

It is the executive branch's authority and responsibility to conduct the global war on terrorism. It is the executive branch's responsibility to conduct the war in Afghanistan. For Congress to impose a restriction on the activities that are consistent with precedent and consistent with the manner in which similar people have been detained over the years when we have been involved in war, such as World War II, and the Germans came to our shores and the spies who were intercepted throughout the world—they were held in the combatant status. These people are in combatant status and, as such, their treatment is subject to the Geneva Convention.

Only this basic law would impose conditions upon the right of the administration and the Departments of the executive branch to fully exploit the intelligence and investigative capabilities of the detention in a combatant status in order to deal with these two terrible scourges we face right now.

Unfortunately, the war in Afghanistan seems to be taking unfortunate turns lately, and I hope we can meet that situation. We meet it through information that we gather from some of these people. I am reliably informed that some of these people, in the way they have been treated, have divulged information to us that has led to the capture and detention of others in a similar capacity as having been enemies of the United States.

In short, I think it would be highly inadvisable to adopt the Bingaman

amendment, and it would have a negative impact on both the war on terrorism and the conduct of wartime operations in Afghanistan.

There are cases pending in the courts now that this amendment, I understand, would terminate because there are people who, through civil rights cases, filed to determine the court's opinion as to the "combat status" designation, and I do not think we should take action now as a Congress to interrupt that process.

Madam President, does Senator INOUE wish to comment?

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Madam President, the committee has been advised, No. 1, that the procedure and process employed in Guantanamo and other places of detention meet the requirements set forth by the Geneva Convention.

No. 2, the matter is being represented by counsel and presently in court. As our chairman indicated, it would not be appropriate for this committee to be intervening while a court case is pending.

No. 3, I think we should keep in mind that this is not a war. This is an experience that this Nation has not had in its past history. This is a war on terrorism. It is not the uniformed enemy to which we are always accustomed where we know who their commanders are, we know where they are coming from, they wear a different type of uniform. In this war, we have no idea who the terrorists are. It could be this young lady here, for all I know.

Having said that, if we follow provisions of this amendment and the Department of Defense and the Department of Justice are required to give out the names, the rank, the charges, et cetera, and to give an indication as to when one can expect this prisoner to be released, I think we may be working right into the hands of the organization we are trying to combat: al-Qaida.

If I were in charge of the al-Qaida operations, I would like to know what is happening to those below me. And if I new Mr. One is coming out next August or Mr. Two is coming out in September, I can make plans accordingly.

As I pointed out, this is a war that none of us have experienced in the past. The chairman and I could speak of World War II and the Hump, the Japanese, the Germans, the camps and such.

On this matter, we have never experienced anything like this. So I hope as long as Guantanamo is open to inspection—and the chairman and I have gone there. It has been always open to Members of Congress if they wish to go there for themselves to look over the conditions, to taste their food, and in fact talk to them to see if they are being tortured, as some would suggest. I think my colleagues will find that as Americans we have treated our detainees in an humane fashion.

Now, no one would want to be detained even for an hour, but in this

wartime condition and terrorist condition I think there is a necessity. We have done our duty in a way that Americans need not be embarrassed and ashamed. So I hope my colleagues will not look favorably upon this amendment and wait for another day.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. How much time remains?

The PRESIDING OFFICER. The Senator has 10½ minutes.

Mr. BINGAMAN. I yield myself such time as I may consume.

Madam President, I will respond to a few of the points my colleagues from Alaska and Hawaii made. First, I will say what this amendment does not do. There is nothing in this amendment that restricts what action the Department of Defense, the Department of Justice, or any other agency of the Government is permitted to take with regard to these enemy combatants. This is an amendment that asks for a report. It does not say certain action has to be taken with regard to these individuals. It says tell us the status.

Second, there is nothing in this amendment that affects court cases. If there are court cases related to any of these enemy combatants, then it is perfectly appropriate for the Justice Department to indicate who the person is or which individuals are involved and say they are subject to pending litigation, if that is the case. But the reality is, if one is designated an enemy combatant, they are taken out of the court system. That designation takes one out of the court system and puts them in the custody of the military. It is the position of our military that from that point on, one has no right to a hearing, no right to be charged, is an enemy combatant, and accordingly they will deal with them as they choose.

The Senator from Alaska says this is something that is probably in the jurisdiction of the Department of Justice. I think that sort of makes my case. These people are in nowhere land. They are in limbo.

There is an article that came out in the morning paper in my home State in Albuquerque where there was a little report on the speech I gave 2 days ago talking about this problem, and I will read a sentence from that report: White House spokesman Taylor Gross referred questions about BINGAMAN's speech and proposed amendment to the Justice and Defense Departments. A Justice Department spokeswoman referred questions to the Defense Department. A spokesman for the Defense Department declined to comment.

The reality is, we are allowing the administration to put these people in a category and then take the position that no rights apply to these individuals. There is no obligation on the Department of Justice to follow procedures with regard to these individuals. There is no obligation on the Department of Defense.

There is nothing in my amendment that questions the treatment of these individuals. Others have questioned the treatment of these individuals. I have not questioned the treatment of these individuals in Guantanamo. There is nothing in the amendment that questions the treatment of these individuals.

Also, the point my good friend from Hawaii has made, that this would give al-Qaida or some other terrorist organization information that could be useful to them about when individuals might be released, first, we have a proviso that anything the Department of Defense determines might be contrary to national security, they should keep it classified. They can give it any level of classification they want to give it. If they want to say it is code level classification, they can do that, whatever classification they think is appropriate.

Mr. DURBIN. Will the Senator yield for a question?

Mr. BINGAMAN. I am glad to yield to my colleague from Illinois.

Mr. DURBIN. I am happy to be a co-sponsor of this amendment. I ask the Senator from New Mexico—he has made the point it is still up to the administration to decide which names and identities will remain classified and not publicly disclosed. If there is any concern about national security and the threat of terrorism, as I understand this amendment, the Senator makes a clear exception so the administration has the last word in terms of this disclosure; is that not true?

Mr. BINGAMAN. Madam President, in response to that question, let me say that is exactly right. We have gone out of our way to make it clear the Departments can keep secret, can keep code classification, whatever classification level the Department decides is appropriate, any information they think is vital to our national security. So we are saying, as to the information that is not of that type, tell us what can be told about who these people are and what the intent is as far as what to do with them.

Mr. DURBIN. I ask the Senator from New Mexico, through the Chair, if he would yield for one additional question. Is it not true historically that when we are in the midst of a national security challenge or crisis, and questions of civil liberties arise, that many times we do not want to face them head on; that it is not until later in history that we look back and say we should have asked harder questions, questions about the suspension of civil liberties in wartime, questions about internment camps, questions about policies that we followed?

If I understand what the Senator is seeking in this amendment, it is to say at this point in time what we are asking for is a disclosure of those people who have been detained and arrested and are in special status, whose rights at least may be compromised because of our concern about national security;

and that disclosure is all that this amendment is about, giving the administration the last word and determination as to which names might be held back and not disclosed because of security concerns.

Mr. BINGAMAN. Madam President, in response to that follow-on question, that is exactly correct. The Senator from Illinois is exactly right in pointing out that in what we are trying to do, we are not—this is not an amendment I am offering 6 weeks after the 9/11 tragedy. This is an amendment I am offering 20 months or more after the 9/11 tragedy. We know that many of these individuals have been there well over a year and a half. It is time that we in Congress exercise our oversight responsibility and say: Who are they? What are they intending to be charged with? I do not anticipate that these are individuals we are going to some day say we have decided to release. I assume that we have them there for good reason, and that we are going to prosecute them and that we are going to find them guilty. That is my assumption, assuming the system works as it is intended to work.

So my thought is, let's get some idea of where we are going so that we begin to build in some accountability and begin to recognize what we historically have recognized, and that is that there are certain legal protections that apply if one is jailed by the United States Government. There are certain legal rights that we will be afforded.

Mr. DURBIN. I ask the Senator from New Mexico if—I do not know how much time he has remaining, Madam President.

The PRESIDING OFFICER. There are 3 minutes 15 seconds remaining.

Mr. DURBIN. If I might ask the Senator from New Mexico this question: What is at issue in his amendment, if I am not mistaken, is whether we are going to afford any form of due process to these detainees. Is it not also true that we have to look beyond these detainees to how we as Americans would be treated in other countries, whether we are establishing a standard which we could live by?

In other words, I am asking the Senator from New Mexico if we believe that we can detain individuals, without disclosure of who they are, and the circumstances of their detention, does that not invite the same conduct against Americans or service men and women overseas and give the United States little or no room to complain?

I ask the Senator from New Mexico if he is not asking for us to stand up for some basic elements of due process which we would ask to be afforded to Americans in similar situations.

Mr. BINGAMAN. In response to the question, I think the Senator from Illinois makes a very good point. If we are going to proclaim our commitment to liberty and to freedom as we always have, and as I certainly want to be able to do, and if we are going to insist that U.S. citizens, when they are captured



in overseas incidents, whether they be military or civilian, that they be given some reasonable treatment through the court systems of those countries, then we have to have some adherence to reasonable legal process for these individuals that we have incarcerated. That is all I am asking. Tell us what we are going to do. If they come back and say we are not going to do anything, then we can see whether a follow-on amendment or follow-on action is appropriate.

This amendment simply says, give us a report. Tell us the status of these individuals; tell us your plans with regard to these individuals; or give us some idea whether or not you are going to charge them. If you are going to charge them with something, tell us what you might charge them with. If you decide to make that decision later on, tell us when you might decide to make that decision.

It is the most modest of amendments. I hope very much it will be supported by my colleagues on a bipartisan basis.

How much time remains?

The PRESIDING OFFICER. The Senator has 53 seconds.

Mr. BINGAMAN. I retain that and I yield the floor.

Mr. STEVENS. Madam President, for the information of the Senate, the Intelligence Committee has access to information about enemy combatants who are being detained, including names the Red Cross is fully engaged with in the continuing meaningful access to detainees.

This Congress was briefed about the creation of the military tribunals and the handling of detainees. The tribunals were created by Executive order. That was published in the Federal Register. It has been a matter of public record for some time.

Any detainees brought before military tribunals have full access to military and, at their request, civilian counsel. We are talking now about the requirement to publish, to release these names. By the way, they have been released, in effect, in classified form, but with the intervention of our Intelligence Committee, which is the oversight committee for this body in regard to information such as this.

I cannot believe we would be faced on an appropriations bill with a matter of this kind. It does not get into money, but it does deal with something the Department of Defense has connection with. It is relevant and therefore we must deal with it.

However, the broad release of the names of these individuals, even in classified form, could compromise our ability to access information which could prevent more terrorist attacks, could prevent more attacks on our military in Afghanistan. This is a military problem in that sense. That is why the Department of Defense is involved. It is the Department of Justice's sense in terms of deciding how they are prosecuted. If they are prosecuted in civil-

ian courts is another matter. Then they would be fully accounted for in the public sector. If the prosecutor in the tribunals—the tribunals themselves can be closed, if that is the decision. The person would still have the right to counsel and a right to be tried before the tribunal, but we would not necessarily have public access to that trial because of the information involved.

If people want to go to Guantanamo and know who is there, go there. We went there. I don't understand why we should take this action now.

By the way, the Senator is not quite correct; it not only says the names and the nationality but also whether they are to be charged, repatriated, a statement of what procedure is going to be followed to determine whether they are charged or repatriated. That is intelligence information. And with respect to such individuals in the United States, intention to charge, a schedule for the filing of the charge and the date for the trial. If it is a military tribunal, it could well be classified. To require the determination now of what would be done—it is true there is an exclusion here; the Secretary can omit. But if he omitted one or more individuals, then he would include in the report an explanation of the mission of the individual or individuals. It could include a classified index. If it could include a classified index, why should it be published? We do not publish a classified index.

The term "enemy combatant" means an individual held under the authority of military order of November 13, 2001, as published in the Federal Register, or an individual designated as an enemy combatant and held under other legal authorities. In both instances, they have quality access to courts that protect their rights. Other people are pursuing those cases.

The interrogation process of people like this is ongoing and very timely. It does not lend itself to detailed plans, firm dates, and firm schedules. We saw some of that when we were in Guantanamo, but the interrogation efforts in many ways require somehow to get through to an individual who has lied to us about who the person is, where they are from, and refused to give any data at all concerning their own background. They were captured under wartime conditions.

This amendment is an attempt to poke Congress' nose under a tent, that we belong only if we are in an unclassified area. That is what the Intelligence Committee has already done. I am reliably informed the Intelligence Committee has access to information about these enemy combatants in detention, including their names. If they started releasing the names of these individuals, even in classified form, it could compromise sources and methods of their acquisition and compromise the possibility of gaining information on them that might prevent further terrorist activities.

If the Senator wishes further time, I will be glad to not yield back my time but I intend to yield back the time and move to table.

Mr. BINGAMAN. I appreciate the courtesy. I will use my remaining 50 seconds.

The PRESIDING OFFICER. Forty-five seconds.

Mr. BINGAMAN. Madam President, first of all, if the Secretary of Defense believes the release of any of these names compromises our national security, he is given full reign to keep that information classified at any level of classification he decides is appropriate. So we are not in any way interfering with national security.

In my view, it is not appropriate for us to say, look, if you want to check on them, get on a plane and go down to Guantanamo. We and the American people need to be persuaded there is some adequate due process and legal process being followed.

Regarding the idea of these military tribunals, there have been no tribunals established. The President said 6 individuals out of the nearly 700 are eligible to be considered or to be tried by military tribunals. There are no military tribunals established.

I urge support for the amendment and I yield the floor.

Mr. STEVENS. Madam President, I yield back the remainder of my time.

Before that, I ask unanimous consent that the second and third votes in this stack of three votes be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I yield back the remainder of my time, I move to table the Senator's amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. The first vote will be on tabling the Dorgan amendment; the second vote will be on the Bingaman amendment; and the third vote will be on Burma.

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 1264

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes evenly divided prior to a vote on the motion to table the Dorgan amendment.

Who yields time?

Mr. STEVENS. There are 2 minutes equally divided before a vote on each amendment?

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Since Senator DORGAN is not here, I will claim 1 minute. I ask unanimous consent I be recognized for 1 minute to close this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. As cosponsor of this amendment, what we are setting out to do is to ask the administration for the

costs of the Iraqi war. That is not included in this Defense bill. We are living on money appropriated in the supplemental appropriation that we know will run out before the next fiscal year ends, so we are leveraging from one supplemental appropriation to the next.

This war, in fact, is costing in the realm of \$4 billion a month and the Afghanistan war another \$1 billion a month. We are asking the President to disclose the cost of this war, to give us an idea for the American taxpayers and for Congress of the financial responsibility we have undertaken.

I support the amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, we fund peacetime budgets in advance. Congress has never agreed to fund war-time expenses in advance. Instead, we have always, in every instance, as stated by the Congressional Research Service, funded them after those costs have been incurred and with the President's request for the payment. Presidents take the money from existing funds and we replace those funds, rather than having budgets determined in advance.

As the Senator from Hawaii so vividly pointed out, it is impossible to know what the costs will be in fighting a war in advance. That is what this amendment urges, and that is why I moved to table that, and I urge the support of the motion.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Hampshire (Mr. SUNUNU) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 278 Leg.]

#### YEAS—53

Akaka	Cornyn	Inhofe
Alexander	Craig	Inouye
Allard	Crapo	Kyl
Allen	DeWine	Lott
Bennett	Dole	Lugar
Bond	Domenici	McCain
Breaux	Ensign	McConnell
Brownback	Enzi	Murkowski
Bunning	Fitzgerald	Nickles
Burns	Frist	Roberts
Campbell	Graham (SC)	Santorum
Chafee	Grassley	Sessions
Chambliss	Gregg	Shelby
Cochran	Hagel	Smith
Coleman	Hatch	Snowe
Collins	Hutchison	

Specter  
Stevens

Talent  
Thomas

Voinovich  
Warner

#### NAYS—41

Baucus  
Bayh  
Biden  
Bingaman  
Boxer  
Byrd  
Cantwell  
Carper  
Clinton  
Conrad  
Corzine  
Daschle  
Dayton  
Dodd

Dorgan  
Durbin  
Feingold  
Feinstein  
Harkin  
Hollings  
Jeffords  
Johnson  
Kennedy  
Kohl  
Landrieu  
Lautenberg  
Leahy  
Levin

Lincoln  
Mikulski  
Murray  
Nelson (FL)  
Nelson (NE)  
Pryor  
Reed  
Reid  
Rockefeller  
Sarbanes  
Schumer  
Stabenow  
Wyden

#### NOT VOTING—6

Edwards  
Graham (FL)

Kerry  
Lieberman

Miller  
Sununu

The motion was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 1268

The PRESIDING OFFICER (Mr. HAGEL). Under the previous order, there are now 2 minutes equally divided prior to a vote on the motion to table the Bingaman amendment.

Who yields time?

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, this is a very straightforward amendment which just requires a report from the Secretary of Defense on those people we are incarcerating under the status of "enemy combatant" and what our intentions are with regard to charging them or making a decision on charging them.

We have a proviso in there that if the release of any of this information will jeopardize national security, the Secretary can withhold that and put it in a classified annex and give it any level of classification the Secretary determines is appropriate.

So it seems to me essential that the Congress exercise some oversight of this process. If we are going to be a nation that stands for liberty and freedom and legal process, then we ought to ensure that everyone who has been taken into custody in our country be afforded some legal protection. There are no military tribunals that have been established. The problem is not resolved. We should ask for this report.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, these people are being held consistent with the Geneva Convention. The Intelligence Committee of the Senate has access to names and information concerning those who are detained.

The Red Cross is fully engaged and has meaningful access to the detainees. We need to have the interrogation process continue so that we can see if we can get information from these people that might lead to us having the ability to prevent further terrorist attacks against the United States.

They are enemy combatants. There is fully published, in the Federal Reg-

ister, the procedure under which they will be handled. This amendment, as a matter of law, forces the disclosure and a plan of when they are to be released. It is contrary to the best interests of national security, in my opinion. I made a motion to table and I urge its support.

The PRESIDING OFFICER. All time has expired.

The question now occurs on agreeing to the motion to table amendment No. 1268. This will be a 10-minute vote. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Hampshire (Mr. SUNUNU) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 279 Leg.]

#### YEAS—52

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bayh	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Talent
Coleman	Inhofe	Thomas
Collins	Inouye	Voinovich
Cornyn	Kyl	Warner
Craig	Lott	
Crapo	Lugar	

#### NAYS—42

Akaka	Dodd	Levin
Baucus	Dorgan	Lincoln
Biden	Durbin	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Cantwell	Jeffords	Reed
Carper	Johnson	Reid
Clinton	Kennedy	Rockefeller
Conrad	Kohl	Sarbanes
Corzine	Landrieu	Schumer
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Wyden

#### NOT VOTING—6

Edwards	Kerry	Miller
Graham (FL)	Lieberman	Sununu

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## BURMESE FREEDOM AND DEMOCRACY ACT OF 2003

Mr. STEVENS. Mr. President, pursuant to the previous order, I ask that the Senate proceed to a vote on the passage of H.R. 2330, the Burma sanctions bill.

The PRESIDING OFFICER. The Senate will now proceed to the consideration of H.R. 2330, which the clerk will report.

The legislative clerk read as follows:

A bill (H. 2330) to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

The PRESIDING OFFICER. The question is on passage of the bill. The yeas and nays are in order. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Hampshire (Mr. SUNUNU) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mrs. DOLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 280 Leg.]

## YEAS—94

Akaka	DeWine	Lott
Alexander	Dodd	Lugar
Allard	Dole	McCain
Allen	Domenici	McConnell
Baucus	Dorgan	Mikulski
Bayh	Durbin	Murkowski
Bennett	Edwards	Murray
Biden	Ensign	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Bond	Feinstein	Nickles
Boxer	Fitzgerald	Pryor
Breaux	Frist	Reed
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carper	Hollings	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kohl	Talent
Cornyn	Kyl	Thomas
Corzine	Landrieu	Voinovich
Craig	Lautenberg	Warner
Crapo	Leahy	Wyden
Daschle	Levin	
Dayton	Lincoln	

## NAYS—1

Enzi

## NOT VOTING—5

Graham (FL)	Lieberman	Sununu
Kerry	Miller	

The bill (H.R. 2330) was passed.

Mr. STEVENS. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. I ask unanimous consent that the distinguished Senator from Louisiana have 4 minutes as in morning business.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

The Senator from Louisiana.

Ms. LANDRIEU. I thank the Chair.

(The remarks of Ms. LANDRIEU pertaining to the introduction of S. 1419 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

## AMENDMENT NO. 1269

Mr. DASCHLE. I have an amendment at the desk. I ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] for himself, Mr. GRAHAM of South Carolina, Mr. LEAHY, Mr. DEWINE, Mr. MILLER, Mr. SMITH, and Mrs. CLINTON, proposes an amendment numbered 1269.

Mr. DASCHLE. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

**SEC. . IN RECOGNITION OF THE NATIONAL GUARD AND RESERVE'S CONTRIBUTIONS TO OUR NATIONAL SECURITY AND EXPRESSING STRONG SUPPORT FOR THE SENATE'S PREVIOUS BIPARTISAN VOTE TO PROVIDE THESE FORCES ACCESS TO TRICARE.**

(a) FINDINGS.—The Senate makes the following findings:

(1) Forces in the U.S. National Guard and Reserve have made and continue to make essential and effective contributions to Operation Iraqi Freedom and other ongoing military operations;

(2) More than 200,000 reserve personnel from the Army, Navy, Air Force, Marine Corps, and Coast Guard are currently serving their nation on active status;

(3) Our dependence on the National Guard and Reserve has increased dramatically over the course of the past decade. Annual duty days have grown from about 1 million in the late 1980s to more than 12 million in every year since 1996;

(4) While our dependence on the reserves has increased in the post-Cold War era, their basic pay and benefits structure has remained largely unchanged;

(5) Offering TRICARE to reservists for an affordable monthly premium enhances our national security by improving their medical readiness when called to duty, streamlining and accelerating the mobilization process, and enhancing our military's ability to recruit and retain qualified personnel to reserve duty;

(6) The Congressional Budget Office, the official, non-partisan scorekeeper of all congressional legislation, has estimated the cost of this proposal at just over one-tenth of one percent of the Administration's FY2004 defense budget request;

(7) On May 20, 2003, a strong majority of Senate Democrats and Republicans joined together and voted 85-10 for an amendment to the FY2004 Defense Authorization bill to provide reserve personnel and their families access to TRICARE regardless of their current deployment status; and

(8) The Appropriations Committee indicated in its report accompanying the FY2004 Defense Appropriations bill that it supports this proposal.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that:

(1) The National Guard and Reserve play a critical and increasingly demanding role in protecting our national security, and

(2) The Senate supports the Appropriations Committee position as articulated in the report accompanying the FY2004 Defense Appropriations bill and affirms its support for providing Guard and Reserve personnel access to TRICARE.

Mr. DASCHLE. Madam President, we have received word of four more reservists killed in Iraq and Kuwait over the past week. They are the 18th, 19th, 20th, and 21st reservists who have made the ultimate sacrifice during Operation Iraqi Freedom, and numerous others have been wounded.

Four other reservists have died this year in support of Operation Enduring Freedom.

Their deaths offer a stark reminder of how our military functions today. A National Guard or Reserve member is more likely to serve on active duty than at any other time in our nation's history. In fact, reservists have been called to support every military operation since Operation Desert Shield/Desert Storm, whether it was peacekeeping in the Balkans, defending our Nation's airspace after the September 11th attacks, or neutralizing the Baathist regime in Iraq.

These troops work hard to stay prepared for the time when their Nation calls, and they are eager to prove themselves when summoned to active duty. Nonetheless, we have been demanding more and more of them, and it's time that we as a Nation considered what we can give back.

For that reason, a bipartisan group of us introduced legislation earlier this year to allow reservists to pay a premium and receive coverage from TRICARE, the military health program. I joined with the Senator, from South Carolina, Mr. GRAHAM, Senator CLINTON, Senator LEAHY and Senator DEWINE, to press for inclusion of a similar proposal in the Fiscal Year 2004 Defense Authorization bill. The outcome was a strong, bipartisan vote, 85-10, in favor of allowing reservists to buy into TRICARE.

Today, we are asking the Senate to underscore our resolve to move forward on this issue. We are asking our fellow Senators to join in affirming the importance of the reserves to our national security and the necessity of a new TRICARE benefit to keep this force intact and improve its readiness.

Some have argued that we would diminish the value of active-duty service by providing the same health benefit to part-time soldiers. In fact, we are requiring reservists to pay for a benefit that comes at no charge to active-duty troops and their families.

Other have said we would be undermining recruiting and retention and

quality of life programs. This argument fails the laugh test, as any Guard and Reserve recruiting officer will tell you.

Still others say this is too costly. But when we rely so heavily on the Guard and Reserve to protect our national security, I question whether we can afford not to provide this benefit. CBO says the price tag would come to just over one-tenth of one percent of the President's proposed Fiscal Year 2004 defense budget. In return, we will take a major step toward ensuring the integrity of this force, by improving its medical readiness when called to active duty, by streamlining and accelerating the mobilization process, and by enhancing our military's ability to recruit and retain qualified personnel to reserve duty.

Today, 40 percent of our reservists between the ages of 19-35—and that represents a pretty broad spectrum of reservists on active duty today—are uninsured. It is in our national security interest to make sure they have health insurance and do not have to go for long periods of time without being able to see a doctor or provide for the most basic health needs of themselves or their families.

Today, more than 200,000 reservists are on active duty, having left behind families, careers, and their everyday lives to serve their Nation. Some may never come home. Our military relies on this force to protect our borders, our national interest, and our people.

I think it is important once again the Senate go on record and send as clear a message as we can that we are not going to rest and we are not going to quit until they have the access they deserve to the health care program they so badly need.

At this time, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GRAHAM of South Carolina. I would like to speak, if possible.

Mr. DASCHLE. I wouldn't be calling for the vote at this point. I am just asking for the yeas and nays and for a vote later on.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

Mr. DASCHLE. I yield the floor.

Mr. GRAHAM of South Carolina. Madam President, I thank Senator DASCHLE for the great help he has been and for his partnership on this piece of legislation. I associate myself with his remarks about the TRICARE program being extended to family members of the Guard and Reserve.

During the last Desert Shield-Desert Storm conflict, I was in the Air National Guard unit that was called up to active duty. Planes, pilots, and crews went over and did a magnificent job. I was in a support role as a military lawyer. I was called to active duty—along with doctors and other folks—to take care of families who were left behind by providing legal services.

When a family member is deployed in the Guard and Reserve, more likely than not the military pay will be smaller than the civilian pay. The Soldiers and Sailors Civil Leave Act allows a renegotiation of loans and a restructuring of debt so the military pay can cover family expenses. You are not successful all the time. I spent hours negotiating new loans, house payments, and car payments so the military pay would cover the family expenses. But one thing that we haven't addressed is health care.

As Senator DASCHLE indicated, there are many members without health care. But for those who have health care, once they are activated, the physician network that your family is used to is replaced by the military.

In the case of our unit—Swamp Fox Unit in the South Carolina Air National Guard that I served in from 1991 to the present—they have been deployed six times. That is not unusual. You have families bouncing from one health care network to the other.

We are trying to make sure that continuity of health care is available to Guard and Reserve families by allowing them, in addition to their membership in the Guard and Reserve, access to the TRICARE military health care system when they are in their civilian capacity as well as when they are activated. So when they are activated, there is no major upheaval in their lives when it comes to health care. They will have a safety net.

You can't be everything to everybody. But they are having to pay a premium that is fair to them, helps reduce the cost of the bill similar to what retirees pay.

It is important to me to put this on the table, and do it in a way so we can afford it. I think the premium helps offset the cost.

I am here to report that I have talked with the administration and the Pentagon which have concerns about implementing this program now because we haven't budgeted for it in this budget cycle. We are going to compromise on the Defense authorization bill and initiate a study of the best way to provide TRICARE coverage to Guard and Reserve members in terms of cost, affordability, and availability. We will have that study. Next year, Senator DASCHLE and all of the others who have worked with us have my solemn promise we are going to go after the money necessary to fund this program.

The proposal we are speaking about today has a statement in it that they are willing to help fund this if we can find the money. This sense-of-the-Senate resolution is important in the sense that we are letting our Guard and Reserve families know we haven't forgotten about them and that we are trying to do this in an affordable and efficient way by studying it for a year. But help is going to be on the way.

The recruiting and retention problems that we suffer in the Guard and Reserve we haven't yet begun to under-

stand. You have some Guard and Reserve units that are indispensable to the war-fighting machine that we have created and which is so effective. Their employers have suffered greatly because they are gone from their work stations in the civilian community a lot. Employers have been paying the difference between the military pay and the civilian pay in many instances.

We are going to work in a bipartisan fashion to have a tax credit. The retirement age is 60. On active duty, you can retire after 20 years of service. As a Guard or Reserve member, I am 5 years away. I have to get 5 good years somehow so I can get my retirement. I am not worried about me. But we have a proposal that for every 2 years you stay on to help your country, we will allow you to retire early. That is not part of the package we are talking about in TRICARE but it will be part of a package to upgrade Guard and Reserve benefits. The total cost for all three—health care, reduced retirement, and tax credits—is in the \$15 billion range over 5 years. That is a lot of money. But I agree with Senator DASCHLE, we can't afford not to do it.

I ask all of my colleagues to look at this closely and support this sense-of-the-Senate resolution so we can sit down with the administration next year in good faith—they have been very good about dealing with this issue in a responsible way this year—and come up with the money and get a commitment from the administration, the Pentagon, the House, and the Senate to fund this program.

If we improve the benefit package, not only are we doing what we should do to help our Guard and Reserve families, which they will appreciate, but we will have a better chance of retaining these great Americans because we are asking so much of them. It is time for us to deliver a better benefit package because they have really delivered for this country.

I appreciate working with Senator DASCHLE, and the administration has been very good to work with. This time next year I hope we can take the floor and tell the Reserve and Guard families of this country that they have a benefit package that shows how much we respect and care for them.

I yield the floor.

Mr. DASCHLE. Madam President, I thank the distinguished Senator from South Carolina for his great effort on this amendment and for his generous words. He speaks from experience—first, as a member of the Guard but then also as a member of the Armed Services Committee. I appreciate the work he has done in getting us to a point where we have a commitment from the administration that they will work with us. I hope we don't have to wait a year. But I recognize reality. I believe it is important to get a commitment regardless of how long it takes.

The message we want to send today with this sense-of-the-Senate resolution is that there is strong bipartisan

support for the concept that we ought to be able to allow the Guard and Reserve to access TRICARE as soon as possible so that in the very situation the Senator from South Carolina has noted—this recognition that they may be called to active duty not once but several times as they go in and out of their role as active guardsmen—they have the time to transition with the coverage and the peace of mind required as they commit themselves once again to their country.

I hope we can get a strong bipartisan vote. I hope we recognize that, while this is not inexpensive, we estimate that one-tenth of 1 percent of the overall cost of the defense budget is a price worth paying for the commitment and the message that we send about our recognition of the important role the Guard and Reserve play today as they serve in Iraq and around the world.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I rise in strong support of the Daschle-Graham amendment. This amendment expresses the strong sense of Congress that members of the Guard and Reserve should be made eligible for the TRICARE health insurance program.

I am the co-chair of the Senate's National Guard Caucus, and I have watched closely as over 200,000 members of the Guard and the Reserves have been called to duty for the war in Iraq. Our reservists have distinguished themselves in every respect, underscoring that our Nation's defense rests—as it has been since our founding—on our citizen soldiers.

We have a responsibility to ensure that this force is as effective as possible. Yet a recent GAO report indicated that almost 20 percent of our reserves do not have access to adequate health insurance. This means that we are deploying men and women to fight when they are not as healthy as possible.

This resolution makes the strong statement in support of a cost-share program that ensures that reservists and their families have coverage. It puts the body's weight behind the strong report language in this bill and follows on the Senate's 85 to 10 vote during our consideration of the Defense authorization bill in favor of this innovative cost-share program.

The defense conferees are currently reviewing this provision, based on legislation I crafted along with Senators DEWINE, DASCHLE, and SMITH, and a strong vote today would send a signal that a final bill should include health insurance eligibility.

I urge all my colleagues to vote again to support this effort.

## AMENDMENT NO. 1271

(Purpose: To require reports on U.S. Operations in Iraq)

Mrs. BOXER. Madam President, I have been working on an amendment that I trust would get support from both sides of the aisle, and I would like, at this time, to send this amendment to the desk and ask unanimous consent that the previous amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 1271.

At the appropriate place, add the following:

## SEC. . REPORTS ON IRAQ

Not less than once every 30 days, the Secretary of Defense shall submit a report to the congressional defense committees, the House International Relations Committee, and Senate Foreign Relations Committee that contains the following information:

(a) Total and monthly costs of U.S. operations in Iraq.

(b) Number of U.S. military personnel serving in Iraq and the immediate region.

(c) Total and monthly contributions made by foreign governments and international organizations in support of U.S. operations in Iraq.

(d) Number of foreign military personnel serving in support of U.S. operations in Iraq.

(e) Defense articles and services offered by foreign governments and international organizations in support of U.S. operations in Iraq.

(f) Total number of U.S. casualties as a result of U.S. operations in Iraq by date and cause.

(g) All contracts in excess of \$10 million entered into by the U.S. government for the reconstruction of Iraq.

Mrs. BOXER. Thank you very much, Madam President. And I am glad the clerk was able to read this amendment because I think it is a very straightforward amendment, not one of those that is convoluted.

Essentially, my amendment is an assurance that the American people will receive the full and accurate costs relating to the operations in Iraq; will know more about the monthly costs therein; will know more about the contribution of our coalition of the willing and other nations that may come in, both in terms of their support of military personnel and their monetary support, and other support; and also will have detailed reports on the casualties.

This is a very important amendment because, quite frankly, as a member of the Foreign Relations Committee myself, we do not have the information we need. I am going to attempt to prove that as I go through my points.

Basically, the amendment would require that each month—every 30 days—the Secretary of Defense send a report to the congressional committees with specific information. You have heard that information read by the clerk, so I will not go into that until my summary.

Madam President, I ask unanimous consent that Senators LANDRIEU and

MURRAY be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Madam President, last August, the Senate Foreign Relations Committee, on which I serve, began a series of hearings on U.S. policy toward Iraq, hearings that began under the leadership of Senator BIDEN, and have continued with our current chairman, Senator LUGAR.

From the very first hearing, my position on this issue was very clear. I felt if our policy toward Iraq was going to be successful, it should be done in conjunction with our allies and in coordination with international institutions, such as NATO and the United Nations.

Why did I feel that way? Because I felt that the burden of this situation should be shared by the world. Surely, the world has something at stake if there is stability in Iraq, and that burden ought to be shared.

The fact is, for many different reasons—and I am not going to rehash them—the burden has not been shared. And this situation is very different than the first Persian Gulf war, where George Herbert Walker Bush built a very broad international coalition to share the burdens of war.

All we have to do is look at the cost. That is one example. The estimated cost of the first gulf war was \$61 billion total. The operation was financed by more than \$53 billion pledged by countries around the world, and some of that came in the form of in-kind services that also counted toward the estimate. So our allies picked up roughly 85 percent of the cost of the first gulf war. Our allies also provided a quarter of the military force on the ground.

How different is this current situation? We have 146,000 troops in Iraq, and they are dying every day. I have come to the floor to eulogize those who have died who had any connection to California. Let me say, since President Bush declared an end to major hostilities on May 1, 15 of those who were either from California or based in California have been killed. In the total of all those killed, 56 have been from California or based in California. This war is touching the people of my State very deeply.

So here are 146,000 troops from our country in Iraq, and the British, our top ally, have 12,000 troops. They certainly have been our deepest friends in this particular situation. They have 12,000 troops. We have 146,000. Poland and Australia have a small number of troops. All these troops are greatly appreciated. But you cannot come close to the type of international coalition that we had in the first Persian Gulf war or, more important, what we need to have today so that the burden does not fall so hard on our families.

Last night, I heard a report on CNN about a little child that would just break your heart. He was there with his mom. You never can script a child. This little boy said: I was supposed to

have my daddy home, and this is the second time, but the President changed his mind again.

Clearly, the President doesn't want to see little kids crying for their parents. No one does. But what it means is we need to internationalize the troops in the field so we do not have to carry this burden. We also need rules and regulations so we keep to our word about the length of the terms served over there, and that is an issue that will come back again. We had a vote on that yesterday.

For a moment I rise to talk about the money. In a hearing on July 9 before the Armed Services Committee, Secretary of Defense, Donald Rumsfeld, was unable to recall the monthly cost of U.S. operations in Iraq. The committee actually had to go into a recess so the Secretary could get the information.

This is unacceptable. I have the transcript from that hearing. I am going to read from it.

Senator BYRD:

Mr. Secretary, what is the current monthly spend rate to support our ongoing military operations in Iraq?

Mr. Rumsfeld:

I'll have to get you that for the record.

It's a combination of appropriating funds, as you know, sir, know better than any, plus the expenditures of funds taking place from Iraqi frozen assets, from Iraqi seized assets and from U.N.-Iraqi assets under the oil-for-food program. And I can certainly have Dr. Zakheim come up and provide a very precise answer as to what's currently being spent.

Senator BYRD:

Do you recall a figure? Can you give us an estimate? I've heard the figure of \$1.5 billion a month.

Secretary Rumsfeld:

I would not want to venture a guess and be wrong, sir.

Senator BYRD:

Well, somebody ought to know.

Secretary Rumsfeld:

Well, they do know. We'll be happy to brief you on that.

Well, I'd like to know now.

Well, we'd have to adjourn . . .

Well, OK.

Madam President, how do you come before the Armed Services Committee without an estimate of the cost? I don't quite understand it.

Secretary Rumsfeld says these expenditures are in a variety of categories, et cetera.

This is what Senator BYRD said:

I understand that, Mr. Chairman, but I've been around here going on 51 years and I'm on the Appropriations Committee, and we want to fund our military and meet the need. But there must be some figure, some amount that we can cite as an amount that we're spending monthly in Afghanistan and the same with respect to Iraq.

Secretary Rumsfeld:

I'm sure there is, and we'll get it for you.

Senator BYRD:

Very well. That'll be another figure we hope to have when we return, Mr. Chairman, I would hope.

And Secretary Rumsfeld says:

In that case not likely. That fast?

Senator BYRD:

Well, you like to have figures fast when it comes to appropriating money.

Secretary Rumsfeld:

That's for sure.

Senator BYRD:

I would [like to] know, on behalf of the Appropriations Committee and the Congress, how much we're spending.

Secretary Rumsfeld:

We'll try and get it for you.

Then Senator BYRD says:

Well, anyhow, so much for that . . .

I ask unanimous consent to print these conversations in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BYRD: Mr. Secretary, what is the currently month spend rate to support our ongoing military operations in Iraq?

RUMSFELD: I'll have to get you that for the record.

It's a combination of appropriated funds, as you, sir, know better than any, plus the expenditures of funds that are taking place from Iraqi frozen assets, from Iraqi seized assets and from U.N.-Iraqi assets under the oil-for-food program. And I can certainly have Dr. Zakheim come up and provide a very precise answer as to what's currently being spent.

BYRD: Do you recall a figure? Can you give us an estimate? I've heard the figure of \$1.5 billion a month.

RUMSFELD: I would not want to venture a guess and be wrong, sir.

BYRD: Well, somebody ought to know.

RUMSFELD: Well, they do know. We'll be happy to brief you on it.

BYRD: Well, I'd like to know now.

RUMSFELD: Well, we'd have to adjourn and I'd have to get on the phone with Dov Zakheim.

BYRD: Well, OK.

We'll be back, won't we, Mr. Chairman?

WARNER: Yes, we will, Senator.

BYRD: And along with that, how much are we spending a month to support U.S. military forces in Iraq?

RUMSFELD: The expenditures for Iraq are in a variety of categories. You might include the salaries of the people that are serving there; those salaries would be paid whether they're serving there or they're back in Germany or back in the United States.

It might include funds, as I indicated, that are coming from other sources. It might include funds for reconstitution that are currently being spent, but we're spending on rebuilding stocks of bombs, for example, and weapons that were used during the conflict.

So it is not a question that can be posed and then answered with a single number. I wish I were able to do that, but if fall into a variety of different baskets under our appropriated funds.

BYRD: I understand that, Mr. Chairman. But I've been around here going on 51 years and I'm on the Appropriations Committee, and we want to fund our military certainly and meet the need. But there must be some figure, some amount that we can cite as an amount that we're spending monthly in Afghanistan and the same with respect to Iraq.

RUMSFELD: I'm sure there is, and we'll get it for you.

BYRD: Very well. That'll be another figure we hope to have that when we return, Mr. Chairman, I would hope.

RUMSFELD: In that case not likely. That fast?

BYRD: Well, you like to have figures fast when it comes to appropriating money.

RUMSFELD: That's for sure.

BYRD: I would know, on behalf of the Appropriations Committee on the Congress, how much we're spending.

RUMSFELD: We'll try and get it for you.

BYRD: I hear and I read that it's something like \$3 billion to \$3.5 billion a month to support U.S. military forces in Iraq. And where are these figures coming from that we read about, and that we in the Appropriations Committee are told from time to time?

Well, anyhow, so much for that . . .

Mrs. BOXER. If anything that happens in the Senate means anything at all, if we are not just spinning our wheels when we have committee hearings, we ought to learn what to do when things are not going right. I suggest things are not going right when a man as intelligent as Secretary Rumsfeld cannot answer a simple question like what it is costing us every single month.

We have found out from the Department of Defense Comptroller that the cost of U.S. operations in Iraq has cost \$48 billion thus far. The cost per month is \$4 billion, not what Senator BYRD thought, 1.3 or 1.4; it is \$4 billion. And given that we are going to be in Iraq for years, not months, according to everyone, how does the administration propose we pay for this, given the tax cuts they have created, deficits as far as the eye can see, and the international community has pledged only \$1.7 billion so far, and it is costing us \$4 billion a month?

Sometimes it is hard for my constituents—to understand these dollars. What I have done today in a handmade chart—forgive me, it is not the most beautiful-looking chart, but I think it says it all—is ask, how do we know exactly what \$45 billion a year is that we are now currently spending on Iraq? I thought I would take a look at selected issues that we care about in the Senate in a bipartisan way and tell the people of this country, as well as remind my colleagues what we are spending on these things compared to \$45 billion a year in Iraq.

We spend on the Drug Enforcement Agency—that is the agency that does everything to get the bad guys who are trying to push drugs on our children and interdicting drugs at the border—in a year, \$1.6 billion. We are spending \$45 billion in Iraq, and we still have people waiting in line to get treatment on demand for their drug habit. We can't take them. We don't have enough money. But we are spending \$45 billion in Iraq.

On higher education, across party lines, we have worked so hard to make sure we have enough money for education. Let's look at higher education—the kinds of grants and loans we give out to deserving middle-class families so that their kids can get a college education. We spend \$23.4 billion on higher education in a year. We are spending \$45 billion a year in Iraq.

Afterschool programs: I have a special feeling for those because I wrote

the law. Senator ENSIGN, on the other side of the aisle, and I teamed up on that one. We are spending \$1 billion a year on afterschool programs, and we have thousands and thousands and thousands of children on waiting lists whom we cannot accommodate because we don't have the money. But we are spending \$45 billion a year in Iraq, and that is before the major reconstruction starts.

We are all talking about Head Start. The President has a plan to give it back to the States. I oppose that fiercely. This is a program that works for poor families. Be that as it may, whether it is a block grant or a Federal program, we are spending \$6.7 billion a year on Head Start. Millions of children are waiting to get in. We are spending \$45 billion a year on Iraq.

Highways: There isn't one Senator in this body who would say their State doesn't need highway funding. We are spending \$31.8 billion a year on highways. By the way, that comes from the gas tax our citizens pay. That is less than we are spending for a year in Iraq.

NIH, the National Institutes of Health: Again, there is no one I have ever met whose family or friends have not been touched by cancer, Parkinson's, Alzheimer's, or heart disease. The bottom line is that we are spending \$27.1 billion a year to find cures for these diseases. And we are spending \$45 billion a year in Iraq.

Veterans' health: These are people who have served this Nation proudly. We have made a commitment to take care of them. We are going to have a whole lot more veterans coming back from this war. We want to meet our commitments. How much do we spend a year on veterans' health? We spend \$23.9 billion on all of the veterans' health. We are spending \$45 billion a year in Iraq.

The Transportation Security Agency: I sit on the Commerce Committee, we know what we have to do to make sure our public is protected from these terrorists who are still in our country. There are declassified reports that say there are tens of thousands in our country. Will they strike again? We are doing everything to make sure the President has the resources he needs. But, bottom line, what are we spending on the TSA to protect the flying public? It is \$5.2 billion.

There is a lot more we have to do, such as retrofit airplanes so if there is a shoulder-fired missile a terrorist gets hold of and shoots that at a plane, there will be a missile defense system through the technology that is on our military planes. We want them on civilian aircraft. This is a bipartisan issue. We don't have enough money for that. But we are spending \$45 billion a year in Iraq.

Coast Guard: Again, they are out there protecting us from drugs that are being smuggled, from human cargo that is being smuggled, and looking out for terrorists. That costs \$6.1 billion a year.

The EPA enforces our laws for clean air, clean water, safe drinking water, and Superfund sites. They are terribly underfunded. The Superfund sites that were to be cleaned up under this administration were cut in half. We don't have the money. As a matter of fact, the "polluters pay" is falling on taxpayers, and yet \$8.1 billion is all we are spending, compared to \$45 billion in Iraq.

My last example is the Superfund Program. If anybody has a Superfund site in their State, they know these are highly polluted sites that need to be cleaned up so that there can be economic development on those sites and so that our children and all of our people can be protected from these poisons. That is \$1.3 billion, and we are spending \$45 billion a year in Iraq.

Why did I go through this? Because sometimes people's eyes glaze over when they hear numbers. Mine tend to do that. We have to put this into perspective. We are spending \$4 billion a month. Secretary Rumsfeld eventually came up with those numbers later. So we know that is a fact. That is what we are spending. That is \$45 billion a year, and we don't come close to spending that on the priorities of the American people. We don't even come close.

So why is my amendment important? Because it is going to tell the American people how their taxpayer dollars are being spent in Iraq and how much of a contribution our allies, our friends, are making. It is also going to tell us the details of when people get wounded or killed—how did it happen and why did it happen? We need that information. We need it on behalf of the American people. That is for sure.

In closing, again, this is a very straightforward amendment. It is written in plain English. It is very clear.

I will close my statement by reading the amendment one more time. I cannot imagine why my friends on the other side would object to this. I hope they don't object. The fact is, the American people deserve to know what is happening to their tax dollars. They don't have to have a situation where someone comes up and Senator BYRD asks a question—regardless of who it is on either side of the aisle—and says, gee, I don't know. That is not acceptable.

Here is how the amendment reads:

Not less than once every 30 days, the Secretary of Defense shall submit a report to the Congressional Defense Committee, the House International Relations Committee, the Senate Foreign Relations Committee that contains the following information:

(a) Total and monthly costs of U.S. operations in Iraq;

(b) Number of U.S. military personnel serving in Iraq and the immediate region;

(c) Total and monthly contributions made by foreign governments and international organizations in support of U.S. operations in Iraq;

(d) Number of foreign military personnel serving in support of U.S. operations in Iraq;

(e) Defense articles and services offered by foreign governments and international organizations in support of U.S. operations in Iraq;

(f) Total number of U.S. casualties as a result of U.S. operations in Iraq by date and cause;

(g) All contracts in excess of \$10 million entered into by the U.S. Government for the reconstruction of Iraq.

On this last one, as someone who has fought hard to end that sole source contract to Halliburton, I am very worried that this could repeat itself. That sole source contract was worth many billions—at least \$7 billion or \$8 billion. It didn't go out for bid. It was going to go forward and we stopped it. I thank Senator WARNER for teaming up with me to stop it.

On August 14, we are supposed to get the follow-on contract. I hope that will happen. I am counting on it. Let us not be sanguine about this whole military procurement situation. I served on the Armed Services Committee for many years on the House side. You turn your back one minute and there is another contract; it didn't go out for a bid, it is costing a fortune, and you wind up with \$7,000 coffee pots on airplanes. I have been there and I have seen that. So all contracts in excess of \$10 million entered into by the U.S. Government for the reconstruction of Iraq—we will know about that, I say to colleagues.

So I think if the Senate has some regard for its own power, its own role in this entire matter, then the Senate will go on record and support this very simple amendment, just asking for information on a monthly basis so we can stay ahead of the curve.

With that, Madam President, I finish my statement. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, this amendment is redundant and unnecessary. It, in effect, requires a report to committees of Congress every 30 days by the administration on operations in Iraq.

The supplemental that the Congress passed in April just before the Easter recess providing fiscal year 2003 funds for the Iraqi operations required that many reports be submitted to committees of Congress. As a matter of fact, within 5 days of the transfer of funds from the Iraqi Freedom account, a report is sent to the Appropriations and Defense Committees of the House and Senate advising the Congress of how these funds are going to be spent.

No such reporting has been required of recent operations elsewhere in the world. For example, during the Clinton administration, no such reports were required for operations in Somalia or Bosnia or Haiti. Nor were they required during the operations in Afghanistan or Kosovo.

This report duplicates information the Department of Defense is already routinely providing through congressional hearings and briefings for Members of Congress and press organizations, news organizations that have access to the regular briefings at the Department of Defense.

The reports on the cost of Iraq and the number of personnel serving in the



region are widely available. We all know that representatives of news organizations are all over Iraq gathering information, making reports every day on television through their news organizations back to the United States and around the world. There are no secrets.

There were members of the press involved and personally present during all of the military operations and, to a great extent, Ambassador Bremer and General Abizaid still make information available to those representatives of news organizations who are seeking information about what is going on in Iraq. We all have access that is unparalleled and truly unlimited.

The Senator complains that this should be required as a matter of statute, that we ought to have an enactment of law that makes the administration provide these reports. But if we look at the supplemental the Congress adopted just before the Easter recess, that has already been done. This is redundant. It is unnecessary.

The Senator read from her amendment to tell us exactly what is in it. We have already provided for reports, and I am going to read it so everybody will know what we have already ordered the administration to do by law:

Not later than 45 days after date of enactment of this Act, the President shall submit to the Committees on Appropriations a report on the United States strategy regarding activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq that are undertaken as a result of Operation Iraqi Freedom. The report shall include the following:

(1) The distribution of duties and responsibilities regarding such activities among agencies of the United States Government, including the Department of State, the United States Agency for International Development, and the Department of Defense (to be provided within 30 days within enactment of this Act)

(2) A detailed plan describing the roles and responsibilities of foreign governments and international organizations, including the United Nations, in carrying out activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq.

(3) A strategy for coordinating such activities among the United States Government, foreign governments and international organizations, including the United Nations.

(4) An initial estimate of the costs expected to be associated with such activities.

(5) A strategy for distributing the responsibility for paying costs associated with reconstruction activities in Iraq among the United States, foreign governments, and international organizations, including the United Nations, and an estimate of the revenue expected to be generated by Iraqi oil production that could be used to pay such costs.

(b) **SUBSEQUENT REPORTS.**—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2004, the President shall submit to the Committees on Appropriations a report that contains:

(1) A list of significant United States Government-funded activities related to reconstruction in Iraq that, during the 90-day period ending 15 days prior to the date the report is submitted to the Committees on Appropriations—

(A) were initiated; or

(B) were completed.

(2) A list of the significant activities related to reconstruction in Iraq that the President anticipates initiating during the 90-day period beginning on the date the report is submitted to the Committees on Appropriations, including:

(A) Cost estimates for carrying out the proposed activities.

(B) The source of the funds that will be used to pay such costs.

(C) Updated strategies, if changes are proposed regarding matters included in the reports required under subsection (a).

(4) An updated list of the financial pledges and contributions made by foreign governments or international organizations to fund activities related to humanitarian, governance, and reconstruction assistance in Iraq.

Madam President, we would be hard pressed to require anything further that the Congress ought to know about the expenditure of funds in carrying out the operations of the activities described in this supplemental appropriations bill.

This bill we are considering enacting now in the Senate applies to appropriations that will be available beginning in the next fiscal year, fiscal year 2004. Reports are required by law now. They will continue to be required and be available to Members of Congress on whatever committee one serves—the Foreign Relations Committee, the Defense Committees, the Appropriations Committees, and any others.

We can read every day about the witnesses who are called before the Congress and questions are asked about what is going on in Iraq. We are entitled to that information. So it is not that I rise to oppose this amendment because we are not entitled to the information the Senator suggests we ought to have, but that we already have it and it is already required to be given to the Congress routinely, and it is made available under provisions of law that have already been enacted. Therefore, if you hired all the accountants and bookkeepers who would be required to fill in all the forms and submit all the documents that Senator BOXER requires, I suggest we should consider renaming her amendment. It should be the Bookkeepers and Accountants Civil Relief Act of 2003. That is my suggestion.

I hope the Senate will table the amendment, and it will be the intention of this Senator, when everybody has had an opportunity to talk about the amendment who wants to talk about the amendment, to move to table the amendment of the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, it is a sad day when one Senator will rename an amendment of another Senator who simply wants to know what it is costing my taxpayers every single day.

If the Senator is right and this has already been done, he did not complain about it then. He did not stand up and say: We want this report, but, gee, we

should not have it because it is too much work.

The bottom line is, I have seen the report to which the Senator refers. It is nine pages, and it is estimates. It is not costs incurred. I have asked as recently as today to find out the contribution of other countries, and I have asked it of people in very high-up positions, and they do not have the answer.

Senator COCHRAN talks about the news: The news knows this; just turn on CNN, they know it. That is not what I was sent here to do, watch CNN. I do not want to give up my power of the purse to CNN or to Fox News or to MSNBC. He talked a long time about the press. If I wanted to be a reporter, I would have stayed a reporter. I was a reporter for a while. But people sent me here to get the facts and figures.

If the Senator believes it is a waste of time and it is a matter of book-keeping to find out the total monthly cost of United States operations in Iraq so I can stand up at a townhall meeting and tell the people what it costs—if he thinks that is a waste of time, then I am confused. Why are we here? Why are we bothering?

Why are we bothering? If he thinks it is a waste of time to find out how many U.S. personnel are serving in the region, then I am very confused. There was a Presidential candidate who was asked that question, and he said between 100,000 and 200,000. He was right, but he was chastised. Why did he not know it was 146,000?

So perhaps the Senator believes it is not important to know in any given month how many people are serving in Iraq. I think it is, because, guess what, they are my constituents. I have lost 50 of them. So I would like to know who is over there.

I also would like to know, when one of our Americans dies, the circumstances surrounding that. I want to know what the coalition of the willing is actually doing, not what the Senator talks about, estimates.

See, he is talking about a report that talks about estimates. I am talking about what actually has occurred, and what costs have been incurred. The Senator never mentioned the fact that I am going after these contracts. Maybe that is because he does not want to go after them. The fact is we see a contract let to Halliburton, a sole-source noncompetitive bid. What does it cost? It could have cost \$9 billion except some of us found out about it, and happily Senator WARNER agreed with me and we came together, and this is supposed to be ended. But it could happen tomorrow.

So I would call the Senator's position, since he has now characterized my position, the stonewall position. I could throw around charged words, too. I could call his words the cover-up-the-true-costs position. That was not my intent. I do not stand here, after a Senator is sincere, to try and demean what they do. I do not think that is right.

But since it was done to me, I say people who do not support this are not interested in knowing the truth, are not interested in getting the facts, are trying to hide something from the American people.

Now maybe the Senator feels \$45 billion a year is a little bit of money. I do not know where he comes from. Maybe that is a little bit of money. Where I come from, that is a lot. We spend \$1.6 billion in all on drug enforcement in this country. We are spending \$45 billion, roughly, but the Senator feels we do not have to have some report that basically tells us how it is being spent. He calls it redundant when it is not at all redundant, because it is not about estimates, which is the report he is talking about, but it is about actual costs incurred.

One thing I thought we could come together on in this Senate is the people's right to know how their money is being spent, and the people's right to know, if troops are lost, what are the conditions, why did it happen, and the people's right to know who is sharing the burden of these costs.

I have spoken to families who have heard from their loved ones that our people over there are more scared now than they were during the hot war, where they performed so brilliantly. I am hearing the words "sitting ducks" used now. It is not a happy situation. We have to work to bring down the burden on our troops, and the financial burden on our people, and we could do that with leadership. At least the Senate ought to know the true costs, not the estimated costs. What I am talking about is accountability, and anyone can stand up and say it is redundant, but the fact is it is far from redundant because I saw the report my friend talks about and it has nothing to do with this. It is about estimates and projections. This is about reality.

So I hope that notwithstanding the opposition I have heard today, which I think frankly is couched in a way which was not fair, that my colleagues will vote for this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. I move to table the Boxer amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Madam President, I ask consent that at 3:15 today, the Senate proceed to a vote in relation to the Boxer amendment No. 1271, to be immediately followed by a vote in relation to the Daschle amendment No. 1269, with no second-degree amendments in order to either amendment prior to the votes; provided further that there be 2 minutes for debate equally divided in the usual form between the votes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the motion to table amendment No. 1271. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Hampshire (Mr. SUNUNU), is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 45, as follows:

[Rollcall Vote No. 281 Leg.]

#### YEAS—50

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bennett	Ensign	Nickles
Bond	Enzi	Roberts
Brownback	Fitzgerald	Santorum
Bunning	Frist	Sessions
Burns	Graham (SC)	Shelby
Campbell	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Talent
Collins	Inhofe	Thomas
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner

#### NAYS—45

Akaka	Dodd	Leahy
Baucus	Dorgan	Levin
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kohl	Schumer
Daschle	Landrieu	Stabenow
Dayton	Lautenberg	Wyden

#### NOT VOTING—5

Graham (FL)	Lieberman	Sununu
Kerry	Miller	

The motion was agreed to.

Mr. ENSIGN. Madam President, I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 1269

The PRESIDING OFFICER. There are now 2 minutes equally divided prior to the vote on the Daschle amendment.

Who yields time?

Mr. REID. Madam President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I ask unanimous consent that the agreement to have 1 minute on each side be waived, that we start the vote immediately.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Hampshire (Mr. SUNUNU) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 282 Leg.]

#### YEAS—93

Akaka	Dayton	Levin
Alexander	DeWine	Lincoln
Allard	Dodd	Lott
Allen	Dole	Lugar
Baucus	Domenici	McCain
Bayh	Dorgan	McConnell
Bennett	Durbin	Mikulski
Biden	Edwards	Murkowski
Bingaman	Ensign	Murray
Bond	Enzi	Nelson (FL)
Boxer	Feingold	Nelson (NE)
Breaux	Feinstein	Pryor
Brownback	Fitzgerald	Reed
Bunning	Frist	Reid
Burns	Graham (SC)	Roberts
Byrd	Grassley	Rockefeller
Campbell	Gregg	Santorum
Cantwell	Hagel	Sarbanes
Carper	Harkin	Schumer
Chafee	Hatch	Sessions
Chambliss	Hollings	Shelby
Clinton	Hutchison	Smith
Cochran	Inhofe	Snowe
Coleman	Inouye	Specter
Collins	Jeffords	Stabenow
Conrad	Johnson	Stevens
Cornyn	Kennedy	Talent
Corzine	Kohl	Thomas
Craig	Landrieu	Voinovich
Crapo	Lautenberg	Warner
Daschle	Leahy	Wyden

#### NAYS—2

Kyl Nickles

#### NOT VOTING—5

Graham (FL)	Lieberman	Sununu
Kerry	Miller	

The amendment (No. 1269) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask the Chair to indicate to the Senate how long that vote took.

The PRESIDING OFFICER. It took 23 minutes.

Mr. STEVENS. Mr. President, I have to take credit on this one, I say to my friend. I asked that it not be completed until I completed a conference that I had conducted.

Mr. REID. I only say to my friend, the distinguished Senator from Alaska, this is not a complaint to the Senator from Alaska. This complaint is to the fact that these votes take so long and are so unnecessary. We waste so much time. We have a significant number of people on this side who want to offer amendments. There are some on the other side. We waste hours waiting for stragglers to come in on votes. If people are not here, let them not vote. We are wasting time. I hope we can speed up the votes.

Mr. President, unless the Senator from Alaska has some other matter that he wants to tend to, I ask unanimous consent that Senator KENNEDY be allowed to offer the next amendment. Senator KENNEDY has agreed—and the other side has seen the amendment—to 30 minutes on his side. We would agree to an hour evenly divided on this matter.

The PRESIDING OFFICER. Is the Senator making that unanimous consent request?

Mr. REID. Yes.

Mr. STEVENS. That is fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1273

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 1273.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a report on the United States strategy for reconstruction in Iraq)

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress an unclassified report (with a classified annex, if necessary) on the United States strategy regarding activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq that are undertaken as a result of Operation Iraqi Freedom. The report shall include the following:

(1) A schedule for the President to seek NATO participation, as an organization of many nations, in ongoing operations in Iraq.

(2) A schedule for the President to seek and obtain the approval of a resolution of the United Nations Security Council authorizing a multinational civil and security force (including substantial participation by armed forces of NATO member countries under uni-

fied command and control) to guarantee the stability, democratization, and reconstruction of Iraq.

(3) An estimate of the number of Armed Forces personnel that are needed in Iraq to guarantee the stability and reconstruction of Iraq, separately stated for each of the Armed Forces and, within each of the Armed Forces, for each of the components.

(4) An estimate of the number of personnel of armed forces of foreign countries that are needed in Iraq to guarantee the stability and reconstruction of Iraq.

(5) A statement and justification from the President for his actions in seeking or failing to seek NATO participation or a UN Security Council resolution.

Mr. REID. Will the Senator yield for a unanimous consent request?

Mr. KENNEDY. Yes.

Mr. REID. Mr. President, I modify the request made a few minutes ago to indicate that there would be no second-degree amendments prior to the vote on or in relation to the Kennedy amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I have had the opportunity to share this amendment with the manager of the bill. I believe the floor manager is familiar with it.

The amendment is now at the desk. I welcome the opportunity to address the Senate on the substance of the amendment. I supported the Boxer amendment that we just voted on, which failed to carry. She was seeking important information on the Iraqi operation. I believe the American people deserve this information. But they also deserve a plan.

My amendment requires the administration to report information on that plan. This amendment asks the President to submit a report to the Congress within 30 days of enactment on the efforts to internationalize our operations in Iraq. The report would provide a timetable for the President to seek NATO participation as an institution in the ongoing operations in Iraq. It would provide a timetable for the President to seek and obtain the approval of a resolution of the United Nations Security Council authorizing a multinational security force, including substantial participation by the Armed Forces of NATO member countries, to guarantee the stability and reconstruction of a democratic Iraq.

The report would include an estimate of the number of American Armed Forces personnel needed in Iraq to guarantee the stability and reconstruction of Iraq, and an estimate of the number of personnel from foreign countries that the administration believes are necessary to accomplish that goal.

Finally, if the administration chooses not to go to NATO or the U.N., the report would require an explanation of the rationale.

Last week, by a vote of 97 to 0, the Senate approved a resolution encouraging the President to consider requesting the involvement of NATO and the U.N. in Iraq. This amendment

builds on that action by seeking a plan and timetable for doing just that.

The administration has had plenty of time to consider this. For the sake of the soldiers in Baghdad, it is time to act. Supporters and opponents of the war alike are enormously proud of the way our troops performed in Operation Iraqi Freedom. The speed and success of their mission in toppling Saddam Hussein demonstrated the extraordinary ability of our Nation's Armed Forces. It is no accident that so few of our forces paid the ultimate price during the 3 tumultuous weeks this took.

It was a foregone conclusion that we would win the war, but the all-important challenge now is to win the peace. In fact, we are at serious risk of losing it. Each day now, as the guerrilla war goes on, our troops and their families are paying the price. Our clear national interests in the emergence of a peaceful, stable, and democratic Iraq is being undermined.

Since May 1, when President Bush announced on the aircraft carrier that major combat operations in Iraq had ended, 82 more American troops have died. For the men and women of our Armed Forces who are dodging bullets in the streets and alleys of Baghdad, and other parts of Iraq, the battle is far from over. President Bush says to the attackers, "bring 'em on," but how do you console a family by telling them their son or daughter is a casualty of the postwar period?

The debate may go on many months, or even years, about our intelligence failures before the war began. The failures of intelligence were bad enough, but the real failure of intelligence was our failure to understand Iraq. There is no question that long before the war began, the serious issue was raised about the danger of winning the war and losing the peace. In fact, it was one of the principal arguments against going to war.

Based on our past experience in Bosnia, Kosovo, East Timor, and Afghanistan, we knew the postwar rebuilding of Iraq would be difficult. These are not new issues. Rather than learning from the past experience in these previous conflicts, the administration rushed ahead, and the result has been chaos for the Iraqi people and continuing mortal danger to our troops—all because we insisted on doing it unilaterally, without the support of the two international organizations that could have made all the difference in winning the peace.

Sadly, we quickly went from liberators to occupiers in a few short weeks. Cynicism and anger against America are rife. Many Iraqis believe we are unwilling, not just unable, to restore basic services. They are losing faith and trust in our promise of a reconstructed, stable, peaceful future, and they fear that Saddam may still be alive. Under fire from guerillas who are determined to see America fail, our soldiers are now performing police

functions for which they have had little training. We are straining their endurance, and they want to know how long they will have to stay in Iraq. Even President Bush is now saying rebuilding Iraq will be a massive and long-term undertaking.

What we need most now is to share at least some of the burden with the international community. Our troops are now sent overseas for longer tours of duty than ever. Because we rely on their skill and the skill to meet commitments on a global scale, more than 150,000 troops are in Iraq, and many have been deployed in the region for close to a year. Half of our Army divisions are in Iraq or Afghanistan. Of the 33 Army combat brigades, 18 are in Iraq. The strain is also great for citizens serving in the Guard and Reserves because we depend upon them with greater frequency, ever since we reduced our forces after the cold war.

It is difficult to continue to put patriotic reservists through the deployment grinder year after year and expect them to hold up indefinitely. It is also difficult to sustain the cost of such missions. We are now spending \$3.9 billion a month in Iraq, and with the ongoing costs of the war on terrorism, our operations in Afghanistan, and our potential new responsibility around the globe in places such as west Africa, let alone Iran and North Korea, we are creating an unsustainable financial burden at a time of exploding budget deficits, soaring demands for homeland security, and mounting needs for health care, education, and other domestic priorities.

As a nation with honor, responsibility, and the vision of a better world, America cannot invade and then cut and run from Iraq, but we also cannot afford the continuing costs in dollars or in blood of continuing to go it alone. If our national security is at stake, we will spare no cost.

The alternative is so obvious. Working with the international community, we can develop and implement an effective strategy to reduce the burden and risk to our soldiers, stabilize Iraq, and deliver on the promise of a better future for its people.

Whatever our divisions before the war, the challenge is very different now. There is every chance we can secure broad international support and participation in the stabilization and reconstruction of Iraq. All we may have to do is ask because so much is clearly at stake for the rest of the world.

At issue is the stability and the future of the entire highly volatile Middle East. No one would be immune from the dangers that a resentful and disorganized Iraq presents for its nation and neighbors everywhere. If we diversify the faces of the security force, it is far less likely that Iraqis will see us as the enemy, oppressor, and occupier. We want the 25 million citizens of Iraq to see the armed strangers in their country as friends

and partners in their pursuit of freedom. We want the new governing council appointed last Sunday to succeed.

We need to bring regional forces into Iraq, especially Muslims. Countries such as Jordan, Pakistan, and Egypt could transform this mission with both their diversity and their expertise. The United Arab Emirates have contributed to the effort in Kosovo. Morocco, Albania, and Turkey have worked with us in Bosnia. Many nations have well-trained police. Reaching out to other countries and bringing them into the postwar process is the surest path to a stable Iraq.

But most other nations are unlikely to send troops to serve what is perceived as an American occupation. India turned us down earlier this week. Other nations will be far more likely to do their part if the international mission is approved by the United Nations or organized by NATO. Instead of asking our Armed Forces to carry out a mission they are not trained for, and to do it alone, we need to rely on the expertise and the resources of the international community. The United Nations has assumed that responsibility in other countries in the past, and it is one of the major reasons the U.N. was created. Necessity is the mother of invention.

In the case of Iraq, President Bush obviously had to modify his strong opposition to nation building. The challenge now is to move beyond unilateral nation building. The new Iraqi council announced on Sunday is a step in the right direction, but it will be much more effective if the United Nations has a major presence in overseeing it.

Those who join a United States-dominated, government-run council run the high risk of being dismissed by the Iraqis as American puppets. As long as America alone is calling the tune, Iraqi moderates may remain in the background or even oppose us.

Our interests in the emergence of a true democracy in Iraq are best fulfilled by involving the world community, and especially other Arab nations, as part of helping the Iraqis themselves shape a new Iraq. Only then would a new Iraq government be viewed as legitimate by the Iraqi people. The U.N. has a modest role now through its mandate for humanitarian issues, but it has only an advisory role in the civil administration of Iraq. That has to change. The U.N. should have a formal role in overseeing the establishment of a political process. The U.N., rather than the United States, should preside over the evolution of a new Iraqi government. Doing so will win international legitimacy and indispensable international support for this challenge, minimizing the danger that Iraqis will keep regarding their new government as a puppet of ours.

With Arab-speaking spokesmen, the U.N. could also convey a different image and a different message to the people of that country, a sense of reassurance that an overwhelming American occupation never can.

NATO, as an institution, should clearly be in Iraq as well. Military experts believe it will take at least 200,000 troops to stabilize Iraq. Our goal should be to include NATO and some of its 2 million-member pool of armed forces in military operations as soon as possible. America will provide a majority of troops, but over time the overall number of forces would decrease.

As in Kosovo and Bosnia, we should ask the United Nations Security Council to authorize NATO to organize an international security force to demilitarize and stabilize Iraq. To do so does not mean the United States should or must relinquish all military control. On the contrary, we would have a significant role in the NATO force and could continue to have a defining role in Iraq.

An American commander was in charge of American troops in Bosnia, and the head of NATO forces in Europe is and always has been an American.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Seventeen minutes.

Mr. KENNEDY. Secretary Rumsfeld told the Armed Services Committee last week that except for the area around Baghdad, most of Iraq is already secure. If that is so, then why not reduce the burden on our military and allow this large area of Iraq, which needs police officers as well as combat troops, to be turned over as soon as possible to the United Nations-approved and NATO-led force? Why not allow American and coalition forces to secure the area around Baghdad and allow other nations to provide security for the rest of Iraq?

We all know that as long as Iraq continues to dominate our attention, we cannot give other aspects of the war against terrorism the clear focus they deserve. It is not just what happens in Iraq itself, as important as that issue is, but the continuing urgency of the ongoing fight against terrorism that should persuade us to seek allies in an international plan for a peaceful Iraq. Otherwise, we run the grave risk of exposing our Nation to more terrorist attacks.

We won the war in Iraq, as we knew we would, but if our present policy continues, we may lose the peace. We must rise to the challenge of international cooperation. Saddam may no longer be in power, but the people of Iraq will not truly be liberated until they live in a secure country. The war will not be over until the fighting stops on the ground, democracy takes hold, and the people of Iraq are able to govern themselves.

My amendment asks the administration to make a major, genuine effort to enlist the official support of NATO and the United Nations for our forces in Iraq. I urge the Senate to affirm it.

Mr. President, I will take a few moments to review the amendment. It is two pages. It says:

Not later than 30 days after the date of enactment of this Act, the President shall submit to Congress an unclassified report (with

a classified annex, if necessary) on the United States strategy regarding activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq that are undertaken as a result of Operation Iraqi Freedom. The report shall include the following:

(1) A schedule for the President to seek NATO participation, as an organization of many nations, in ongoing operations in Iraq.

(2) A schedule for the President to seek and obtain approval of a resolution of the United Nations Security Council authorizing a multinational civil and security force (including substantial participation by armed forces of NATO member countries under unified command and control) to guarantee the stability, democratization, and reconstruction of Iraq.

(3) An estimate of the number of Armed Forces personnel that are needed in Iraq to guarantee the stability and reconstruction of Iraq, separately stated for each of the Armed Forces and, within each of the Armed Forces, for each of the components.

(4) An Estimate of the number of personnel of armed forces of foreign countries that are needed in Iraq to guarantee the stability and reconstruction of Iraq.

(5) A statement and justification from the President for his actions in seeking or failing to seek NATO participation or a U.N. Security Council resolution.

Basically, what this amendment is saying is, let us hear from the President on what the plan is for postwar Iraq.

Let the Senate hear from the President his response to what was the 97 to 0 vote in the Senate Chamber last week that asked him to consider going to the United Nations, going to NATO, and reporting back to the Congress so the American people will have knowledge and understanding of exactly what the plans for the future of Iraq would be.

I hope as we were able to gather a virtually unanimous vote in the Senate last week on the previous resolution, we could gather support in the Senate on this resolution.

I reserve the remainder of my time.

Mr. STEVENS. Did the Senator modify his amendment?

The PRESIDING OFFICER. The amendment has not been modified.

Mr. KENNEDY. The amendment I sent to the desk did not need a modification. I provided for the Senator paragraph 5.

Mr. STEVENS. Mr. President, is that the subparagraph 5?

Mr. KENNEDY. Yes. That was the modification. Rather than sending the modification to the desk, I sent a completely new amendment and I believe my staff shared it with the Senator. The only difference was these four lines:

A statement and justification from the President for his actions in seeking or failing to seek NATO participation or a U.N. Security Council resolution.

So the purpose of the last paragraph is that if the President decides he is not going to follow this, that he will send back to the Congress and to the Senate a report stating to the American people the reasons and the justification for not doing so.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I consider the Senator from Massachusetts a great personal friend and I hope he takes no umbrage at what I am going to say. I have been here now 35 years. I certainly was not here during Senator KENNEDY's brother's administration, but I was alert and part of the national constituency at the time and admired very much what President Kennedy did in terms of handling foreign policy, and particularly the Cuban crisis.

I read this and I see an amendment that tells the President to report to Congress on what he intends to do in the future in terms of negotiations, to give us a schedule of the strategy he and Ambassador Bremer will follow almost on a daily basis. I wonder what would have happened to President Kennedy in the Cuban crisis had that been the demand of Congress, to tell us in advance what they were going to do about the possibility that those missiles from Russia might come to Cuba. I really cannot believe the Senate has gone so far that they want to handle the President's daily schedule and have it in advance.

The President of the United States is the President of the United States. I really cannot believe anyone would vote for this amendment, and I hope the Senator will reconsider his language.

This last section says the President should give a statement and justification for his actions in seeking or in failing to seek an agreement for NATO to participate, or a U.N. Security Council resolution. That is required by the Senator's amendment. First, it tells him to seek it and then it tells him to follow up on almost a daily basis through this continuum now of handling the Iraq crisis. This is worse than the amendment we considered before, which would ask the President to predict how many mortars, how many missiles, how many whatever are going to be needed in the future, what is the plan for the future contingencies that might occur in Iraq. This is saying the President should give us a schedule that the President is going to use to seek to obtain approval of a resolution for the United Nations Security Council, including participation by armed forces of NATO and member countries.

As a matter of fact, we have already delegated that authority to SACEUR and to the ambassador to NATO. They have a daily proposition. I do not imagine they themselves even give the President a daily schedule of what they are going to do in the future with regard to NATO. Certainly to ask Mr. Bremer and the President's representatives to tell us what is their schedule now and in the future in dealing with other countries, when are they going to ask for U.N. participation, NATO participation, how are they going to do it, and will they please tell us, if they do not do it, why they did not do it, and if they failed, why they failed—my God, Senator, I really believe we should seriously consider what we are

doing. This expects the President to seek and obtain. No, it does not expect. It directs him: The President shall seek and shall obtain.

The Presidency is a separate, independent portion of this great democracy. We have some checks and balances on it, that is true, and they are pretty strong, but we do not have the power to tell the Commander in Chief what to do. We do not have the power over foreign affairs. He does. If he wants to make an agreement, he has to submit a treaty, and he has to submit it to us for our advice and consent, but he still has the power to make them. We cannot tell him what to do. This tells him what to do. It not only tells him what to do, it tells him to succeed and, if he fails, to tell us why he failed.

Now, I do not know, maybe I am too much of an old trial lawyer. I get excited about some things, and I hope the jury is listening. I was pretty successful as a trial lawyer, as a matter of fact, because jurors listen if you get their attention. I hope I am getting the attention of the Senate, no matter where it is, because this amendment goes far too far:

Shall submit to the Congress an unclassified report (with a classified annex, if necessary) on the United States strategy regarding activities to the post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq that are undertaken as a result of Operation Iraqi Freedom.

Then it gives five separate categories of things that are done in the future. It is not a report of what has happened in the past. To demand it of the President and say the President shall submit a report to us on anything I think overlooks the concept of checks and balances.

We can ask the President to do something by a bill, and he can veto it. He is surely not going to veto this bill, although if I were President, if that came to me I would veto it because it does not represent the distinction I understand to exist under the Constitution in terms of the three great branches of this democracy.

Now, to have the President give us an estimate of the number of Armed Forces personnel that are needed in Iraq to guarantee the stability and reconstruction of Iraq, separately stated for each of the Armed Forces and, within each of the Armed Forces, for each of the components, predict again—predict the future, predict the contingencies, predict whether Turkey is going to participate, predict who else is going to participate, predict who will not participate, my God, do we want the President to publish that, that so far this nation has not agreed, so far that nation has not agreed?

We were privileged to listen to the Secretary of State today in a classified session upstairs give his opinion of what might be possible, but to ask even the Secretary of State to give us a plan and publish it for what he intended to do to try to achieve a goal that is a goal of all branches of our Government,

and that is terminate our affair in Iraq as soon as possible and successfully. I think it would be highly improper. I do not think he would submit it.

I take umbrage at the fact that this amendment tells the President what to do, and tells him to tell us how he is going to do it, in advance of even knowing what the circumstances are that he has to plan for.

We do not know how long we are going to be in a security situation in Iraq. I have told the Senate, and certainly I think most people know, I got a little upset when they would not let part of our committee into Baghdad. Other parts of the United States forces and executive branch are in Baghdad, and I pointed out to them that with other Senators I went in and out of Vietnam several times on helicopters that were shot at, but we went throughout Vietnam to see and report back to the Senate what was occurring. I thought we had that right to go into Iraq and report back what was occurring, but I was convinced later that—and we now know that there is a serious security threat there because of the snipers who are there, because of those people who are still so allied with the Baath party and Saddam Hussein that they are willing to literally commit suicide to cause us problems. That is not a new phenomenon if we look at what has been happening between Palestine and Israel for so many years, but we did not expect it there. I confess that was really a shock to me to hear about that, when our people were there to protect those who have been given their freedom, that some of their countrymen are willing to continue to kill us because we are protecting their own countrymen. This concept now is getting to the point of really being a difficult problem.

I think the Senate has a right to participate in these plans and to have hearings when the time comes and ask these people to come up and testify before us about what the plans are. Those plans undoubtedly would require expenditures of some Federal funds. I expect them to come before our committee and tell us they have requirements and then set forth the nature and extent of those requirements.

I certainly do not expect this committee to send a demand to the executive branch, particularly the President himself, to tell us now what they are going to do in the future and to predict now what the contingencies are in the future that have to be met or to have a statement and justification for the President for his actions in seeking or failing to seek NATO participation or a U.N. Security Council resolution. That is something the Constitution gives the power of the President to do. We are going to demand he give us a statement of justification for not taking action? I don't think that is within our province. Not at all.

I hope the Senate is listening. I hope the jury will agree with me and we will not approve this amendment.

How much time remains?

The PRESIDING OFFICER. The Senator has 19 minutes remaining.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, 82 American soldiers have been shot since the President of the United States landed on the Abraham Lincoln and effectively said this war is over. There is no postwar policy. It is a bankrupt policy.

We attended the hearings with General Garner regarding postwar Iraq policy. He lasted 21 days and was fired. Now we have new personnel in Iraq, operating out of the palace in Iraq. We have American servicemen who are in a shooting gallery over there; and the Senator from Alaska is rejecting our request for the President of the United States to tell us what our policy is?

We do not have a postwar policy for development in Iraq. We have failed intelligence. One day they are saying the army is going to defect and join us; the next day they fire the army, the next day they are trying to rehire them. One day they say they will recruit the police and the next day they say they are thugs and will have nothing to do with them. They don't have a policy.

For the Senator from Alaska to stand here and say he is indignant because the American people want to hear what the policy is surprises me just as much as I surprised him. The American people want to know how long their sons and daughters are going to be shot at in Iraq. What is the policy?

A week ago we had 97 Members of the Senate, including the Senator from Alaska, urging the President of the United States to consider going to the United Nations and to consider, as well, using NATO. The Senator from Alaska supported that.

What this amendment is saying is, tell us if you are going to go to the United Nations, tell us if you are going to include NATO. And if you are not going to, come back and tell the American people why not.

We had a President who said we were going to use NATO in Bosnia. It worked, and we reduced the number of Americans who were killed. We had a President say we were going to use NATO in Kosovo. It worked, and we reduced the number of Americans killed. We had a President who said we would bring in U.N. forces in East Timor. We did and reduced the dangers to America. There are many who believe that is a viable option. Maybe the Senator from Alaska does not, but there are a lot of people and a lot of parents who do.

I say to the Senator from Alaska, the American people are entitled to know the policy of this administration. To hear such rejection to find out the policy is amazing.

This is supposedly an open government. We would think the President would want to share his thinking in order to galvanize support. No President can lead a country in time of war

unless he galvanizes the support of the American people.

We ought to know what the policy is. If this is not the policy, tell us what it is—not behind closed doors but in open session. Tell us what it is. We did not hear it at the Armed Services Committee last week from the Secretary of Defense and we did not hear it today, evidently—unless a few selected Senators heard it in a closed session.

What is wrong with requesting the President of the United States to tell the American people where we are going to be in 30 days in Iraq when our American servicemen are being shot and killed every day. I am sorry that irks or bothers the Senator from Alaska but parents of American service men and women would like to know. The American people want to know. We are entitled to that kind of information. If he does not want to go that particular route, come back and tell us what he does want to do.

This is a makeup policy over in Iraq. One person heading it up today and he is gone tomorrow. We have people deciding they will do one thing today and they change it tomorrow. In the meantime, one thing is consistent: the killing of American servicemen who are doing tasks they were not trained for and they should not be doing in that country.

Many believe it would be worthwhile to bring other troops in and share the responsibility and burden of securing Iraq. Maybe the Senator rejects that. There are people within the administration who want to go it alone. If that is the position, the posture of this President, let's hear it out and have a debate on it.

One day it is, no, we do not want to go it alone; we want to use the United Nations and NATO but we really do not want to request them. Secretary General Robertson of NATO has indicated that the United States has not made a direct appeal to him in order to galvanize NATO as an institution to provide security. Sure, some of the countries have been asked, but the Secretary General of the United Nations says the United States has not asked the United Nations in a formal way to try to take over some of the responsibilities. Maybe there is good reason for it. But the American people are entitled to know what the reasons are.

This amendment is to try to find out that information. We do have a responsibility in foreign policy in terms of making war, the war powers, as well as in approving treaties.

This Senate, the people's Senate, has a responsibility in foreign policy. The American people are entitled to know the thinking of this administration as their sons and daughters are getting shot every day. I am sorry if 30 days is too long a time. But we know what is going to happen. There will be 30 more Americans killed during that period of time. We are entitled to know.

With all respect—and I have great affection for the Senator from Alaska—I

am as troubled by his reaction as he is troubled by this amendment.

I withhold the remainder of my time.

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 19 minutes and the Senator from Massachusetts has 5 minutes 24 seconds.

Mr. STEVENS. I postulate, if this power exists to do what the Senator from Massachusetts wants to do, we might not have been in Vietnam. I had a conversation with a former Senator who disagreed with President Johnson and wished he had some way of deterring him from his course.

I remind the Senator of the power of the President:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices.

Nothing in this Constitution gives the Congress the right to ask for that. In fact, to the contrary, there is a specific power for the President. In section 3 of article II it says:

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; . . .

There is nothing in this Constitution that gives us the power to tell the President of the United States what to do—not at all. The separation of powers is one of the most distinct advantages of this democracy. It is the longest living government on the face of the Earth today because it is a government of the people, by the people, and for the people, but it has a Constitution. That Constitution we all swear to uphold and defend. Part of that Constitution is the separation of powers concept. We do not have the power to dictate to the President of the United States. We can send him a bill and ask him to do something, and he can veto it if he wishes, but we cannot, in my judgment, tell him to do anything.

We cannot command him to plan in advance; to tell us what he is going to do; to tell us what is the plan of action for an area that is still so unstable that people are being killed. I regret that as much as the Senator from Massachusetts. We all do. There is no question about that.

There seems to be building up a feeling here that somehow or another we are wrong to be in Iraq; we are wrong to stay in Iraq. Yesterday, I had in my office a young man from the 101st Airborne who had served in Iraq. I asked him, What do you think about being there?

He said: Senator, I am proud I went there, and I want to tell you I am proud of what we are doing there.

He said: I never thought I would live to see the day we would see the results of a person like Hitler. I saw those graves. I saw the way they had been treated by that dictator. We were right to be there and we are right to be there.

I believe he would go back there today if we asked him.

The problem is not the presence of our people over there in danger. The problem is people questioning our right to keep them in danger without some plan in advance that would absolutely protect them from danger. I think we have the best system of defense in the world. I know we have the best military in the world. We have the best systems available to them in the world. We have the best sensors. But it is still possible to fool all of this technology and have a person come in and kill one of them.

As a matter of fact, it is possible to come and kill one of us. We can't tell them to give us a plan how to protect us, as a matter of fact. We don't have a plan to protect ourselves, as a matter of fact.

We live in a democracy. The democracy is that we elect people to carry out the duties under this book, the Constitution of the United States. I say this amendment violates the spirit and the meaning and intent of the Constitution of the United States. It is not our right to tell the President to give us a statement of justification for his actions in seeking or failing to seek an agreement in terms of foreign policy.

I do believe that we have a right, again, to schedule hearings, to ask them to come up and give us their opinions, as we did today with the Secretary of State—off the record, however, on a classified basis because of the nature of it. I believe we have an absolute right to ask him to give us details of the money he asks us for. And he will ask us for money, I am certain. But to go this far, to say that not later than 30 days from the enactment of this bill the President shall submit to the Congress this report, a schedule, to seek approval of the United Nations authorizing multinational force; an estimate of the number of forces we are going to have there to guarantee reconstruction for each component; an estimate of the number of personnel, armed forces of foreign countries that are needed to guarantee the stability and reconstruction—all of this—a schedule for the President to seek participation as an organization of many nations in NATO, ongoing operations in Iraq—I couldn't prepare that schedule. I couldn't prepare a schedule of my actions for the next week if I tried. And I don't see how the President can prepare a schedule of his actions on a matter so deep and so intricate as trying to determine how we should complete our actions in Iraq.

If I remember right, in October we passed a resolution the President signed giving him authority to do what he is doing. That resolution didn't say,

and as you do, give us your plan of action in advance; define for us your strategy in advance; give us the number of people you are going to deploy; tell us how you are going to get foreign troops to come at us; go to the U.N.; go to the NATO.

We knew better than that. We responded to his request to get our approval of his intent to use his power as Commander in Chief to try to restore freedom to Iraq. I am proud of this President and what he did. I intend to defend him as much as I can and assist him as much as I can in achieving what the Congress asked him to achieve, and I do not believe he should be put in a straitjacket to do so.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. Five minutes 22 seconds.

Mr. KENNEDY. I will not take the time.

Mr. President, American service men and women are dying every day. This amendment does not require the President to go to the United Nations. It does not require him to go to NATO. All we are trying to find out is what his policy is. If he does not want to go to the United Nations, if he does not want to ask NATO to come in there and get additional help and assistance and troops that might provide some relief for ours—just tell us. Just tell us. He ought to be able to tell us, give us the answers very quickly.

All we are asking for is to know the policy. I think parents are entitled to know whether this President will go to ask for additional kinds of military force in terms of NATO—in Muslim countries, other countries that will be interested in helping and assisting the Americans secure Iraq. I think the American people are entitled to know whether we will follow the other measures that have been taken that have been successful in Kosovo and in Bosnia and also in East Timor.

If the President doesn't want to do it, fine, but just tell us. American servicemen are dying over there. We are entitled to know what the President is going to do.

But we do not have an answer now. We do not have an answer except more of the same. And this postwar policy is adrift. It is bankrupt. It is nonexistent. It is being made up on the back of an envelope every single day, and American service men and women are dying. That is what this amendment addresses.

Finally, the Senator from Alaska, as I understand it, voted on this resolution last week, where the Senate included in the sense-of-the-Senate resolution that the President should consider requesting formally and expeditiously that NATO raise a force for deployment. The Senator supported that sense of the Senate that the President should consider calling on the United Nations.



This was passed last week. All we are saying is, if you are not going to do it, tell us you are not going to do it, and tell us within the 30-day period. If you are going to do it, let us know that as well.

I think the American people are entitled to know what our policy is because I don't believe they do know, today.

I reserve my time.

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 12 minutes; the Senator from Massachusetts has 2 minutes 24 seconds.

Mr. STEVENS. Mr. President, I sense the Senator from Massachusetts wants to place the responsibility for those who are in harm's way, who do lose their lives, who do, as we say, make the ultimate sacrifice for democracy; and he wants to have a plan in advance.

It is true I voted for that resolution. It was precatory. It was a sense of the Senate saying to the President of the United States we think he ought to get as many people in there to help as possible. We think we ought to get the U.N. involved. We think we ought to use NATO forces to the extent we think we can. We think we ought to get a burden-sharing arrangement in Iraq because it is in the best interests of the whole world that we have eliminated Saddam Hussein. It is in the best interests of the world that peace be restored in Iraq. I firmly believe that.

We passed a resolution that told the President to use all necessary means to achieve the objectives we outlined. He asked for our approval of his intention to deploy our forces to take down the Saddam Hussein regime.

I absolutely agree. I voted for the resolution. It had nothing to do with asking the President to make the statements and to give us within 30 days a statement of justification for his actions in seeking or failing to seek NATO participation or a United Nations Security Council resolution: Thirty days; tell us now; and, if you haven't done it in 30 days, you failed. How is that consistent with the Constitution?

If we want to sort of assess blame for the deaths that are occurring in Iraq or Afghanistan, as far as that is concerned, we all share the blame. We are Americans who asked young people to volunteer. We didn't conscript them. Every single one over there—God bless them—is a volunteer. I think we are the only nation in the world today that has a totally volunteer military. We asked them to join. We asked them and told them what their duties would be. Their duty is to obey the commands of the Commander in Chief and to support the Constitution of the United States. Again, God bless them; that is what they are doing very well. I almost puddle up thinking about the young people who die because of the request of this Congress and the President's compliance with that request.

How we get out of this in terms of satisfying the demands of people who want a daily plan for what we are going to do tomorrow: We were privileged to see part of the plan that dealt with the embarkation of our forces going to Iraq. As I said here before, part of that plan was to go through Turkey. If that plan had been published about going through Turkey, and had it been discussed here, and had Turkey changed its mind, then the question would be, What was your contingency plan? Would we have published a contingency plan? We have contingency plans right now in case there are people who come back into Iraq who want to really restore war there.

The Senator says the President said the war was over. We all thought it was. Today, the military forces who are there in uniform are there because we don't have a civilian component capable of maintaining security in an atmosphere such as Iraq.

I just visited with some of the people who came back from there. They say it is sort of a scary place. There are places where you can drive down the road just like you would drive from here to Chicago. There are other places where you wouldn't cross the street. Our job is to maintain forces there to protect people who have to cross the street. Until our job is done, the President will keep our people there. Until that happens, and until he makes the decision to bring them back, I will vote for the money to support them. I will give them the authority and whatever he needs to protect them. And I will ask the Congress to make certain that we understand we will get further requests for money for Iraq. That is for sure. How much, I couldn't tell you.

Again, back to my great friend from Hawaii who made the statement about his time as platoon leader and how he would not have known how many grenades would be used in the next week. How does the President know how many forces he is going to have to use next week to protect those who are there? I understand that some of them are coming home. I saw a young man in my office who told me about his experience there.

But I don't think we are in a position yet where we can demand an estimate of the personnel of the Armed Forces in foreign countries and who are needed in Iraq and for reconstruction. That even implies that the forces would be used to reconstruct Iraq. I don't think they are going to use military people to reconstruct Iraq. I think we will have the council that has just been nominated put forth an Iraqi government that will seek support to use their own income from their oil and start bringing about an economic system that is based upon supply and demand and have reward for every individual for their contribution to their society. I expect to see a really vibrant economy and a vibrant democracy in Iraq before I leave this world because of what we are doing now.

Again, I urge Members of the Senate to support the Constitution. Don't get in the position where we try to dominate the executive branch by requiring a schedule in a bill which he cannot veto because of the circumstances which exist today. He cannot do that.

We must protect this bill against any threat of veto. Certainly there would be a threat of a veto. If I were President of the United States, I would certainly veto a bill that had that direction to me.

I urge Members to vote to table the amendment. I will do so when the Senator is finished with his time.

I yield such time to the Senator from Hawaii as he might use.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Hawaii.

Mr. INOUE. Madam President, it was not my intention to participate in this debate.

As it is well known in this Chamber, I was one of the few who voted against the resolution to grant the President of the United States authority to carry out the strike. So my views are rather well known here.

But on matters that are being discussed today, in war it is almost impossible to predict what will happen tomorrow. As I indicated earlier, as a young lieutenant in charge of 40 men, if someone should have asked me how many men I thought I would lose today in battle, my response would be that I hope none. But who can predict that?

Like many of my colleagues here, I have seen too many men killed. I have sensed the anger of war, and I have tasted the hatred involved.

I say these things not to criticize my dear friend. In fact, I commend him for bringing these matters up for discussion. But one in war cannot make predictions, much as you want to.

Equally as important, in the world of diplomacy—and in this case pointed out very astutely by my chairman, the Senator from Alaska—the President of the United States is in charge of the foreign policy of this Nation. In the world of diplomacy, when one sits down with another diplomat, one doesn't tell the world, I am going to tell that person that I want this or I want that or I am going to do this if you do not do that. It is just not done that way. Most of the conversations between heads of state are in private. That is the way it should be. We are not here to embarrass the head of state of some country by telling the Senate that, in my discussions with prime minister such-and-such, he said this and he is reneging now. That is not the way it is done.

Equally as important, whatever disclosures our Commander in Chief makes, they impinge upon the future of the men on the front line. I would not want any sort of activity that would place our men and women in jeopardy. I think if we force the President of the United States to do what is required in this resolution, we may be placing our men and women in jeopardy.

Mr. KENNEDY. Madam President, I understand there are 2 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Madam President, it is important to know what this is and what this is not. We are not asking for war plans. We are talking about how we are going to win the peace.

We have a policy which is adrift in Iraq today. Americans are getting shot every single day. We are not asking for secret conversations between heads of state. All we are trying to do is ask the President of the United States, as we did a week ago, to consider going to the United Nations. We asked him to consider going to NATO. Now we are asking him: If you are going to NATO, tell us; and if you are not going to NATO to try to get relief for our military, tell us.

This is about the postwar period, not a secret plan about whether we are going through Turkey or how many bombers we are going to have or how many ships. We are talking about the plan for the postwar period and where Americans are getting shot every single day.

The policy is adrift. We are asking the President to clarify for the American people what his policy is. I think the American people are entitled to it.

I am prepared to yield back my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, the law we passed authorizing the President to proceed requires reports to the Congress:

The President shall, at least once every 60 days, submit to the Congress a report on matters relevant to this joint resolution, including actions taken pursuant to the exercise of authority granted in section 3 and the status of planning for efforts that are expected to be required after—

“after”—

such actions are completed. . . .

That is in the resolution we voted for. That is the authorization for use of force.

Madam President, I ask unanimous consent that a statement by Paul Bremer, the President's representative, our representative, in Iraq, which was an op-ed piece he provided to the New York Times, dated July 13, 2003, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. In it, Ambassador Bremer states:

In all this, the coalition is working closely with Iraqis who will eventually be responsible for their country's well-being. For our three priorities—security, politics and the economy—the strategy provides for the successful transition to a stable and reformed Iraq. This does not mean that the road ahead is without danger. The combination of a broken infrastructure and acts of sabotage could mean a rough summer. We will suffer casualties, as the bitter-enders resort to violence. We are also braced for an increase in terrorism by non-Iraqis, but no one should doubt our determination to use our power in the face of violent acts.

Once our work is over, the reward will be great: a free, democratic and independent Iraq that stands not as a threat to its neighbors or the world, but as a beacon of freedom and justice.

#### EXHIBIT 1

[From the New York Times, July 13, 2003]

#### THE ROAD AHEAD IN IRAQ—AND HOW TO NAVIGATE IT

(By L. Paul Bremer III)

BAGHDAD, IRAQ.—Americans can be proud of the role their fighting men and women played in freeing Iraq of Saddam Hussein and his cronies. The people of Iraq are now on the road to political and economic independence.

The first official step in this political transition at the national level occurs today, with the convening of the Iraqi Governing Council. This is the latest sign of progress. For the first time in decades, Iraqis are truly free. More than 150 newspapers have been started since liberation. All major cities and 85 percent of towns now have a municipal council where Iraqis are increasingly taking responsibility for management of local matters like health care, water and electricity.

Iraqis are speaking out and demonstrating with a vigor borne of 35 years of imposed silence. This is not yet a full democracy, but freedom is on the march, from north to south. Sadly, this progress is despised by a narrow band of opponents. A small minority of bitter-enders—members of the former regime's instruments of repression—oppose such freedom. They are joined by foreign terrorists, extreme Islamists influenced by Iran and bands of criminals. These people do not pose a strategic threat to America or to a democratic Iraq. They enjoy no support since their only vision is to reimpose the dictatorship hated by Iraqis. Our military will hunt them down and, as President Bush said, “They will face ruin, just as surely as the regime they once served.”

These shadowy figures are killing brave Iraqis working with us, attacking soldiers and civilians, and trying to sabotage the fragile infrastructure. The attacks have drawn concern worldwide. My coalition colleagues and Iraqi friends have noticed that the attacks are often aimed at successes in the renewal of this nation. A week ago, an American soldier was mixing with students at Baghdad University, which reopened on May 17. Their presence was testimony to the educational progress that is blossoming here (public schools have also reopened). But our enemies fear enlightenment, so one of them killed the soldier.

The day before, 250 Iraqi police recruits graduated, the latest success in re-staffing law enforcement. Tens of thousands of Iraqi policemen are now on duty. But the enemies of freedom correctly felt threatened by the cooperation and professionalism the day represented, so they set off a bomb that killed seven new officers. Before the war, women had to travel miles for propane. Now, local councils are establishing distribution centers that make the gas readily available to households. On June 18, one American soldier was killed while guarding a center. The June 24th explosion at an oil refinery in Barwanah is another example of political sabotage on Iraq's energy supply.

With these attacks on Iraq's new successes, citizens of coalition nations ask how long we will remain in Iraq—and some Iraqis may doubt our ability to improve their lives. As President Bush has made clear, we are committed to establishing the conditions for security, prosperity and democracy. America has no designs on Iraq and its wealth. We will finish our job here and stay not one day longer than necessary.

We have a plan to support the establishment of this government of, by and for Iraqis. After months of consultations with Iraqis, we have taken the first step in establishing an interim administration. Today, the Governing Council of Iraq will meet. It represents all the strands from Iraq's complicated social structure—Shiites, Sunnis, Arabs, Kurds, men and women, Christians and Turks. The council will immediately exercise real political power, appointing interim ministers and working with the coalition on policy and budgets.

At the same time, the council will establish procedures to write Iraq's new constitution. Once it is ratified by the people, elections can be held and a sovereign Iraqi government will come into being. So the question of how long the coalition will stay in Iraq depends in part on how quickly the Iraqi people can write and approve a constitution.

The coalition recognizes the urgency of marrying economic well-being to political freedom. For 35 years, the country's assets were misappropriated or stolen. We are pouring resources into re-establishing basic services and creating jobs. Our economic reform plan will entail a major shift of capital from the value-destroying state sector to private firms. We are also creating a social safety net for any resulting disruptions. And we believe that a method should be found to assure that every citizen benefits from Iraq's oil wealth. One possibility would be to pay social benefits from a trust financed by oil revenues. Another could be to pay an annual cash dividend directly to each citizen from that trust.

In all this, the coalition is working closely with Iraqis who will eventually be responsible for their country's well-being. For our three priorities—security, politics and the economy—the strategy provides for the successful transition to a stable and reformed Iraq. This does not mean that the road ahead is without danger. The combination of a broken infrastructure and acts of sabotage could mean a rough summer. We will suffer casualties, as the bitter-enders resort to violence. We are also braced for an increase in terrorism by non-Iraqis, but no one should doubt our determination to use our power in the face of violent acts.

Once our work is over, the reward will be great: a free, democratic and independent Iraq that stands not as a threat to its neighbors or the world, but as a beacon of freedom and justice.

Mr. STEVENS. Madam President, I move to table the Senator's amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, were the yeas and nays ordered on the Kennedy amendment?

The PRESIDING OFFICER. The yeas and nays were ordered on the motion to table.

Mr. STEVENS. I call for the regular order.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1273.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Hampshire (Mr. SUNUNU) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 283 Leg.]

#### YEAS—52

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Baucus	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Talent
Coleman	Inhofe	Thomas
Collins	Inouye	Voinovich
Cornyn	Kyl	Warner
Craig	Lott	
Crapo	Lugar	

#### NAYS—43

Akaka	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Harkin	Pryor
Byrd	Hollings	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Stabenow
Daschle	Lautenberg	Wyden
Dayton	Leahy	
Dodd	Levin	

#### NOT VOTING—5

Graham (FL)	Lieberman	Sununu
Kerry	Miller	

The motion was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, Senator MCCAIN will be recognized to offer an amendment and after that Senator CORZINE.

Mr. REID. Senator MCCAIN was gracious, and he said he was going to be long. Senator CORZINE can go first.

Mr. STEVENS. That is agreeable. I state to the Senate that Senator CORZINE will offer an amendment and then Senator MCCAIN will offer an amendment. We will vote on those two amendments. Hopefully, we will start at 7 o'clock on those two amendments.

I want to tell the Senate, I have been negotiating with my great friend, our

great leader—can I call you the great leader?—about the process. Senator FRIST has agreed that I can state, if we can finish this bill tomorrow night, there will not be any votes on Friday. The Senate will be in session. And on Monday we will be in session but there will be no votes. It will be our intention to call up and start statements and even consider amendments, if Senators wish to raise them, on homeland security on Monday, but no votes. That is conditioned upon us finishing this bill before we go home tomorrow night. I know a lot of people want to make plans to travel west. You can leave in the morning or late at night where I live.

As a practical matter, I urge Senators to cooperate with us and find ways to raise their amendments. We will be pleased to stay in session tonight and have amendments offered and have them voted on at a time to be determined tomorrow. We are going to try to do our best to continue through tomorrow. We do have a Joint Meeting of Congress for the leader of Britain tomorrow. That will interrupt this process a little bit. But we will continue after that tomorrow and finish if Members will cooperate.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, on behalf of Senator DASCHLE and all the Democrats, we recognize that it is a heavy push to do this tomorrow. We are going to do everything we can to meet this schedule. We have people on our side who also have things to do the next day. We will do everything we can.

The Senator from Alaska is absolutely right, the Blair meeting, as important as that is, is going to slow us down. We have made great progress today. We will do the best we can.

Mr. STEVENS. We can turn this into a little prayer meeting. So others might follow the example, I yield to the Senator who wishes to state he will not raise an amendment.

Mr. NELSON of Florida. Madam President, I was considering offering an amendment regarding Roosevelt Roads in Puerto Rico because of punitive action that was taken in the House bill requiring the shutting down of Roosevelt Roads within 6 months, simply as a punitive measure over the fact that some of the leaders in the House did not like the fact that the Puerto Rican people took a position that they did not want training at Vieques Island. Instead, it ought to be done in a deliberative and professional process, just like any other military base, through the normal BRAC process.

The resident commissioner or the delegate from Puerto Rico has requested that I not offer the amendment. He feels very confident that he will be able to prevail in conference. So at his request, I will not offer the amendment.

The PRESIDING OFFICER. The Democratic whip is recognized.

Mr. REID. Madam President, we have about 1 hour 15 minutes under the sug-

gested schedule of the Senator from Alaska. That will mean the Senator from Arizona, Mr. MCCAIN, will have 45 minutes. He wanted 45 minutes himself. I wonder if he will take a half hour plus 15 minutes for the Senator from Alaska?

Mr. STEVENS. I shall take care of myself, Madam President.

Mr. REID. We need to have some time agreement if Senator CORZINE is going to be followed by Senator MCCAIN. We cannot leave Senator MCCAIN with no time.

Mr. STEVENS. Senator MCCAIN assured me he would cooperate with our schedule, knowing the event Senator INOUE and I will attend tonight at 7:30 honoring World War II veterans. We will come back to continue the bill after that ceremony.

Mr. REID. Madam President, Senator REED has been most cooperative. Following those two votes, he wishes to speak on the bill. He would like to speak for up to half an hour after the completion of the two votes that have been mentioned by the Senator from Alaska.

Because Senator MCCAIN has allowed Senator CORZINE to go first, I wish to make sure Senator MCCAIN has time left to debate his amendment. It is my understanding that the two Senators who are going to speak on this will use no more than a half hour between them.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CORZINE. I thank the Chair. Will the Chair inform me as I approach the 20-minute mark?

The PRESIDING OFFICER. The Chair will do so.

Mr. REID. Madam President, I will put that in the form of a unanimous consent request that we have Senator CORZINE, then we have Senator MCCAIN, and that there be no second-degree amendments prior to a vote on or in relation to both those amendments, and that Senator JACK REED be recognized following those votes to speak on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Jersey.

AMENDMENT NO. 1275

Mr. CORZINE. Madam President, I call up my amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from New Jersey [Mr. CORZINE] proposes an amendment numbered 1275.

Mr. CORZINE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

TITLE \_\_\_\_\_.—NATIONAL COMMISSION ON THE DEVELOPMENT AND USE OF INTELLIGENCE RELATED TO IRAQ

#### SEC. 101. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on the Development and Use of Intelligence Related to Iraq.

#### SEC. 102. FINDINGS.

(1) The Congress underscores its commitment to and support for ongoing Congressional reviews regarding the collection and analysis of intelligence related to Iraq.

#### SEC. 103. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the role of policymakers in the development of intelligence related to Iraq and Operation Iraqi Freedom;

(2) examine and report upon the use of intelligence related to Iraq and Operation Iraqi Freedom;

(3) build upon the reviews of intelligence related to Iraq and Operation Iraqi Freedom, including those being conducted by the Executive Branch, Congress and other entities; and

(4) investigate and publicly report to the President and Congress on its findings, conclusions, and recommendations.

#### SEC. 104. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 12 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 3 members shall be appointed by the minority leader of the Senate; and

(4) 3 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2) the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as intelligence, governmental service, the armed services, law enforcement, and foreign affairs.

(2) INITIAL MEETING.—Once six or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

#### SEC. 105. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates the development and use of intelligence related to Iraq and Operation Iraqi Freedom; and

(B) shall include an investigation of intelligence related to whether Iraq—

(i) possessed chemical, biological and nuclear weapons, and the locations of those weapons;

(ii) had links to Al Qaeda;

(iii) attempted to acquire uranium in Africa, and if so, when;

(iv) attempted to procure aluminum tubes for the development of nuclear weapons;

(v) possessed mobile laboratories for the production of weapons of mass destruction;

(vi) possessed delivery systems for weapons of mass destruction; and

(vii) any other matters that bear upon the imminence of the threat to the national security of the United States and its allies.

(2) submit to the President and Congress such report as is required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(A) FORM OF REPORT.—Each report prepared under this section shall be submitted in unclassified form, but may contain a classified annex.

#### SEC. 106. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purposes of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, cables, e-mails, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the Chairperson of the Commission, the Vice Chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the Chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CLOSED MEETINGS.—

(1) IN GENERAL.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) ADDITIONAL AUTHORITY.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or

portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

#### SEC. 107. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson and vice chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) **CONSULTANT SERVICES.**—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

**SEC. 108. COMPENSATION AND TRAVEL EXPENSES.**

(a) **COMPENSATION.**—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

**SEC. 109. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.**

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

**SEC. 110. REPORT OF THE COMMISSION; TERMINATION.**

(a) **REPORT.**—Not later than nine months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress a report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) **TERMINATION.**—

(1) **IN GENERAL.**—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the report is submitted under section (a).

(2) **ADMINISTRATIVE ACTIVITIES BEFORE TERMINATING.**—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

**SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Commission to carry out this title \$5,000,000, to remain available until expended.

Mr. CORZINE. This amendment is premised on a strong view that intelligence and its honest analysis are vital tools in our war on terrorism. To protect the American people, our intelligence must not be shaped to win an argument, but must be used to inform.

This amendment calls for a bipartisan commission to study the use of intelligence related to Iraq. The commission would examine several key issues, including intelligence related to the following questions:

Whether Iraq possessed chemical, biological and/or nuclear weapons;

Whether Iraq had links to Al-Qaida, and;

Whether Iraq attempted to acquire uranium in Africa.

Earlier today I joined in a growing expression of concern by my colleagues and the American people about the representation of intelligence information by the President and the administration in building its case for the war in Iraq. Without a thorough explanation of why many of the administration's statements are in conflict, and have included claims unsubstantiated by the best intelligence, the American people, their representatives, and many of our would-be international partners in post-conflict Iraq, will most certainly begin to lose confidence in the administration's intelligence analysis, if not their word. Simply put, the Nation's credibility, in my view, is at stake.

This credibility is important for the security of the American people who have and continue to bear an enormously high cost, a heavy burden, in both life and treasure, with regard to our presence in Iraq. I know in my home State of New Jersey there have been seven soldiers who have been lost since the beginning of the conflict. It is something that impacts people's daily lives.

We stand with our troops. We stand with the mission they are trying to do, to bring about democracy, but we do have a right, and they have a right to have credibility with regard to the intelligence that is presented.

There have been a lot of accusations and allegations circulating in recent days. Some may be trying to politicize this debate. This amendment is an attempt to ensure that this debate does not become a political one, and that we focus in a bipartisan way on getting to the facts.

In my view, in order to preserve the public credibility of the United States, we need a thorough public review, one that is above politics, one with conclusions that will be regarded as credible and definitive, not only in the U.S. but around the world.

As we are now all well aware, in this year's State of the Union Address President Bush said:

The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.

The power of the President's allegations in those 16 short words cannot be overstated. The Bush administration, using legalistic language, was leading people to embrace, at least in the opinion of many, the view that Saddam Hussein had an active nuclear program. The President did not say the British were claiming anything. He did not say they alleged anything. He said they "learned" that Saddam was attempting to buy uranium, implicitly accepting the charge as fact.

Although just 16 words long, it was a powerful statement that resonated in the context of debates that had gone on throughout the Nation and the world for nearly 5 months, in every public forum, the floor of the Senate, the halls of the United Nations, and across the airwaves. Only after many months did we the people and the Congress

learn this statement was based on information that our own intelligence agency earlier learned was false. In fact, the administration's own spokesperson said the statement was inappropriate for the State of the Union address. And the Director of Central Intelligence has stated that: These 16 words should never have been included in the text written for the President.

Yesterday morning, Senator LEVIN, the distinguished ranking member of the Senate Armed Services Committee, raised several areas of particular concern, including: the aluminum tubes; the Iraq-al-Qaida connection; whether Iraq reconstituted nuclear weapons; whether Iraq possesses chemical and biological weapons; allegations of mobile biological warfare labs.

Furthermore, Senator LEVIN laid out seven questions about claims specifically regarding Iraq and the uranium. He argued that these should be answered in the context of a bipartisan investigation. I believe that is true, and I could not agree more.

This is not just a concern about the African uranium issue. It is about whether there was a fair and full presentation to the American people. But to that list of questions, I would add several others.

For example, if the information in the State of the Union Address was "technically accurate," as administration officials have lately argued, why was it excluded in Secretary Powell's 90-minute presentation before the United Nations only 8 days later?

Also, why did we learn about the misleading nature of these comments, not from the administration, but from the International Atomic Energy Agency and the media?

This is not an academic matter. At stake is nothing less than the credibility of the United States, and that credibility is important for protecting the American people. That credibility gets weakened each day we fail to have a full accounting of the facts about what happened, facts such as who knew that certain information was false? When did they know it? Why was it expunged from one administration speech but not another? And why are we just learning about much of this now?

Keep in mind, political leaders around the world, not just here at home, have staked their own reputations on their support of President Bush and the United States. As a consequence, many of our closest allies and their elected officials are facing enormous criticism from their own citizens, and sometimes—and this is quite telling—from their own political parties. We owe it not only to the American people but to all those who stood with us to be straight and to come clean immediately; otherwise, this episode will only undermine our ability to win support for other critical foreign policy interests in the future, and they are substantial. In fact, without a clear explanation, we put the American people at risk facing a world

where our partners question our credibility on many interconnected concerns: Korea, Iran, Syria, and the road map to peace in the Middle East.

We need to understand whether this is part of a broader pattern of selective release of information or just a series of unfortunate snafus. Last October, for example, during the Iraq debate, Secretary James Kelly was in Pyongyang, meeting with the North Koreans. At that meeting, a meeting that occurred a full week prior to the Senate vote on the resolution authorizing force in Iraq, the North Koreans admitted to an active nuclear program. Yet despite its importance and relevance to the debate regarding Iraq and America's national security posture generally, administration officials waited until after the Congress had voted on the resolution—6 days, by the way—to authorize the use of force before revealing the details of the North Korean disclosure.

To this Senator, that information was both relevant and timely to the Iraq debate. Was this information withheld because it might affect the tenor of the debate, or might impact the Congress's view of the Iraqi threat, or the relative view of the Iraq threat?

As Senator LEVIN and others have explained, there may have been other instances in which the administration selectively, in some form or another, misrepresented or withheld information to support their case for the war in Iraq.

For example, the administration claimed there were linkages between al-Qaida and Iraq. But many now believe those claims were overstated or exaggerated, and based on scant and circumstantial evidence.

Another widely discussed issue relates to Iraq's purchase of aluminum tubes, where there was considerable debate within the intelligence community about whether the tubes were intended for use as part of a nuclear program.

When these claims are added up, many people have concluded that the administration may have been seeking to win an argument—not inform the American public. And we need to know the truth. We need to be informed to make good decisions, to set priorities, to go forward, to protect the American people. The American people deserve to be informed accurately.

The commission I am proposing would be completely bipartisan. It would neither supplant nor interfere with ongoing Congressional reviews regarding the collection and analysis of intelligence related to Iraq.

So, again, I hope we can support this proposal. We need to ensure that the facts come out. We should do it on a bipartisan basis, and we should do it immediately. The safety and security of the American people are at stake.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I rise to support the Corzine amendment.

I think this is an incredibly important amendment to this important bill. In doing so, once again, as I have done before on this floor, I commend our service men and women who have served us so well in Iraq, as well as around the world.

We join in our pride and gratitude for their courage and their service.

However, I must rise today to express my deep concern about revelation after revelation of the fragile nature of the facts presented to the American public and the world about the reasons we had to preemptively, unilaterally attack Iraq.

Those misleading words in the President's State of the Union Address this past January have brought into question the credibility of our Government. This is extremely serious. It hurts our country because Iraq is not the only threat to our Nation, as the Senator from New Jersey indicated. We continue to be threatened by terrorists in emerging nuclear countries such as Iran and North Korea. In order to win the war on terrorism and ultimately disarm Iran and North Korea, we are going to have to work with NATO and other allies to protect American citizens.

Unfortunately, the misleading statements about Iraq attempting to purchase uranium from Niger will make building such coalitions even more difficult. This means our homeland will be less safe and our American citizens less secure. This is a deep concern of mine. I wish the misleading statements about Iraq and Niger were the only statements in question that the President and his administration have made to the American people. Unfortunately, there have been others.

First, let's go through what transpired with the statements on Iraq and Niger. Before the State of the Union referencing Iraqi purchases of uranium from Africa, the administration, at the direction of the CIA, took out a nearly identical line in a speech the President gave in Cincinnati last October justifying the use of force in Iraq. Then, the African uranium purchase was back in the State of the Union Address, although we were told now this was a mistake by the CIA director George Tenet. Then, the African reference was dropped from Secretary of State Powell's presentation on Iraqi weapons capabilities to the United Nations just 8 days later. Then, Saddam's nuclear weapons came back with certainty when Vice President CHENEY appeared on Meet the Press in March and said, "We believe he has, in fact, reconstituted nuclear weapons."

This was one of the main assertions used that took us to war, and I believe the American people have a right to know which is it. If it was good intelligence, why the constant change of mind? Either Iraq had nuclear weapons or it didn't. If it was bad intelligence, who kept pushing to use it in the administration speeches and interviews? We need to know the answers to these

questions. It is important for the credibility of our country and for the trust of the American people in our Government.

It does not end there. We heard much about specially-made aluminum tubes that could be used to build centrifuges to create weapons-grade uranium. In the same State of the Union where he referenced uranium purchases from Africa, President Bush also said: Our intelligence sources tell us that he has attempted to purchase high-strength aluminum tubes suitable for nuclear weapons production.

But, in fact, an unclassified intelligence assessment back in October stated some intelligence specialists "believe that those tubes are probably intended for conventional weapons programs."

Last February, Secretary of State Colin Powell told the U.N. Security Council that "we all know there are differences of opinion," and that "there is controversy about what these tubes are for."

However, the International Atomic Energy Agency, after conducting its own study, concluded the uranium tubes were not for uranium enrichment.

Which is it? Enough time has gone by; we should have and are entitled to answers. We are entitled to the truth. Most importantly, the American people are entitled to the truth. Although we now have more than 140,000 troops in Iraq, we have not yet found chemical or biological weapons or even the plants needed to make them. We have not found evidence of al-Qaida training camps, although in the runup to the war the administration not only said they were there in Iraq but that they knew precise locations.

Again, this administration has taken us into a new age, an age where we claim the right to unilaterally, preemptively strike another nation because we believe our national survival is at stake. In such a world, the intelligence used as proof for striking first has to be unassailable, has to be totally credible, or the American people and our allies will be deeply suspicious of any future claims.

The claims led to decisions to put American men and women in harm's way and in too many instances have led to the loss of life. We need to find out the truth behind the various claims and questions, legitimate questions that have arisen, questions that have been asked by colleagues on both sides of the aisle, questions that have taken us into the deserts of Iraq and put our men and women in harm's way.

The only way we can get to the bottom of this is to set up an independent commission to get the facts, a bipartisan commission, a way to objectively look at what happened so it does not happen again.

There is nothing more serious than a potential nuclear threat to our people. If there was ever a need for an independent commission, it is now. We now

face potential nuclear threats from Iran, from North Korea. We could face more in the future. American families and our American troops deserve answers to the questions that have been raised. We all deserve answers. We all deserve the truth.

I hope my colleagues will join in support developing this independent commission. I believe nothing less than the credibility of our country is at stake. I hope we all join in supporting the Corzine amendment.

I yield the floor.

THE PRESIDING OFFICER (Mr. ALEXANDER). The Democratic leader.

Mr. DASCHLE. Mr. President, I rise for a couple of minutes to compliment the distinguished Senator from Michigan for her very eloquent statement and for the leadership of the Senator from New Jersey, a member of the Foreign Relations Committee. Both Members have made their points very ably. I am grateful to both of them for their leadership in this effort.

The real question is, How do we assert the facts in the most logical and the most bipartisan manner? As we have seen on so many other occasions, the only way to ensure that is done with a public review of the information provided and all of the facts available to us is through this independent approach. The Intelligence Committee has done an outstanding job. I commend them for their session, even this afternoon as we speak, looking into the facts as they are presented from those within the intelligence community.

As Senator ROCKEFELLER has noted on several occasions, they are constrained by their own understandable jurisdictional review and do not have the capacity to go beyond that jurisdictional review when issues involving other branches of the Government, other agencies of the executive branch, and certainly the White House itself, are involved.

So this affords an opportunity to do the right thing, to give the American people the confidence they need that we understand now what the facts are, what the story is, and how we can ensure as we make these judgments we are doing so with the very best policy and goals in mind.

I think this is a very worthy amendment. I think it ought to pass on an overwhelmingly bipartisan vote. I am hopeful we can do that this evening, and I am grateful to those who have committed to this amendment, and especially for the leadership of Senators STABENOW and CORZINE.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I rise also in support of Senator CORZINE's amendment. Yesterday was a very grim day in Minnesota. We had the funeral service of the first Minnesotan to be killed in Iraq this year in the line of duty, PVT Edward James Herrgott. It is a grim reminder that 63 days after the President declared the hostilities

almost over in Iraq, this young man lost his life on July 3, standing out in front, guarding the Baghdad Museum, the site where some of my colleagues and I had swept by, well protected, just 2 days before. He was killed, murdered by a sniper's bullet. At the age of 20, his life and all of its promise was snuffed out.

We learned last week from the Secretary of Defense that, in his judgment, the military presence, some major component of which will have to be from the United States—hopefully much less will be, when we do as we must, which is to internationalize the continued development and hopefully economic recovery in Iraq—but as long as there is going to be a presence there, United States troops are going to be a big part of that, and it is almost unavoidable under the circumstances, especially as they exist today, the number of men and women who have lost their lives since May 1—which stands now at 79—will only increase.

So, as Americans are faced, again and again, with a member of the family, a friend, an acquaintance, or just through the media a fellow citizen of that State, again and again they are going to be confronted with this question of, what are we doing in Iraq? What is the game plan to extricate our troops after achieving the success the military had so dramatically, remarkably in the 3 weeks it took from entering the country to sweeping into Baghdad with an incredible display of technology, the training, and most of all the dedication of those men and women who have really redefined the words "courage" and "patriotism" for this Senator.

They continue to labor there under the most extreme conditions, 115-degree temperatures, all the other difficulties that are manifest there, not to mention the life-threatening danger that so many of them are under day and night.

Given all that, I think it is imperative for our national security that we understand that we—all of us collectively in the Congress and the President, this administration—made what is the most momentous decision that can be made by this body and the administration, the decision whether or not to go to war—in this case, to initiate a war against another sovereign nation. To know that decision was made on accurate information from our intelligence operations, to me, is essential to our national security in the days and years ahead.

It is also essential to our democracy to know the information we are getting from our leaders is truthful, accurate, to the best of their knowledge. There are enough questions that have been raised that must be answered, and they must be answered with the truth and with the facts as that can be determined objectively and dispassionately to be.

I regret that the Senate Armed Services Committee, of which I am a mem-

ber, is not going to be undertaking the bipartisan investigation into these issues as its counterpart, the Senate Intelligence Committee, has agreed to do. I think there has to be that kind of willingness on both sides of the aisle to seek the truth. I cannot understand why anybody would not want to find the truth and present it to the Members of this body and, even more importantly, to the American people. But that is a decision that evidently has been reached.

In the absence of that, I think this independent commission is essential. We owe it to ourselves. We owe it to the Private Herrgotts whose lives have been sacrificed in this endeavor. We owe it to the future men and women who will be over in Iraq, in future engagements, if necessary. We owe it, ultimately, to our country, our democracy, and to ourselves.

I yield the floor.

AMENDMENT NO. 1270

THE PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

THE PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1270.

Mr. MCCAIN. I ask unanimous consent that the reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of funds for certain programs, projects, and activities)

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. None of the funds appropriated by this Act may be obligated or expended for any of the following programs, projects, and activities:

- (1) The canola oil fuel cell initiative.
- (2) Shakespeare in America military communities.
- (3) Control of brown tree snakes.
- (4) The Academy for Closing and Avoiding Achievement Gaps.
- (5) Hangar renovation at the former Griffiss Air Force Base, New York.

Mr. MCCAIN. Mr. President, this amendment strikes funds for the canola oil fuel cell initiative, Shakespeare in American military communities project, control of brown tree snakes, hangar renovation at the former Griffiss Air Force Base, and the Academy for Closing and Avoiding Achievement Gaps.

First, I would like to address the Senate concerning the 2004 Defense Appropriations Act. With each and every appropriations act, I come down to the floor of the Senate to point out many of the special interests and pet projects Members add to the legislation each year. Today I have the opportunity to speak on H.R. 2658, the Defense Appropriations Act for Fiscal Year 2004.

I remind my colleagues, the responsibilities of authorizers and appropriators are supposed to be distinct. The



role of the Senate Armed Services Committee is to establish policy and funding levels and to oversee the Department of Defense and its programs. The role of the Appropriations Committee is to allocate funding based on policies provided by authorization bills.

The appropriators' function today, as we all know, has expanded dramatically and the Appropriations Committee now engages in significant policy decisionmaking and micromanaging, clearly usurping the role of the authorizing committees.

The chairman of the Rules Committee was kind enough, a week or so ago, to have a hearing on a proposal I have to change the rules so that a point of order can be more easily lodged against an unauthorized appropriation. I will not bore my colleagues with further details because I have already introduced the rule and explained it.

But during that hearing, chaired by my friend from Mississippi, Senator LOTT, there was discussion of the process. This situation, this imbroglio in which we find ourselves, is not entirely the fault of the appropriators. I know it sounds strange for me to make that statement, but the fact is that there are holds on bills which are authorizing, which are done anonymously in many cases, and prevent the authorizing aspect of the process to be carried out, thereby forcing the appropriators to act in a policy fashion. Many times these holds are permanent and, really, there are some occasions where the Senators themselves do not know that those holds have been imposed.

Additionally, there is the process that, unfortunately, results that many programs and important agencies of Government even are not reauthorized. The Federal Communications Commission, which falls under the responsibility of the committee I chair, has not been reauthorized since 1993. So then it is understandable why the appropriators would act in such fashion.

I preface my remarks with the full acknowledgment that the system itself has broken down to a great degree.

As I came to this floor before and pointed out, the process of earmarking and outrageous appropriating has increased in a dramatic but reasonable fashion when you consider that any evil unchecked is going to rise.

According to information compiled by the Congressional Research Service, which examined earmarks for fiscal years 1994–2002, the total number of earmarks has grown from 4,126 in fiscal year 1994 to 10,540 in 2002—an increase of over 150 percent. The level of funding has risen from \$26.8 billion in 1994 to \$44.6 billion in fiscal year 2002, an increase of over 66 percent.

We are talking about real money.

We now see on the front page of the Washington Post this morning that the budget deficit may surpass \$450 billion.

I might remind my colleagues that there is a little chart on the other side.

In 2000, we had a surplus of \$236 billion; \$127 billion in 2001; a deficit of \$157 billion in 2002; and, in 2003 it is estimated to be \$450 billion.

My dear friends, if you believe it is only going to be \$450 billion, I have some land in the Arizona desert I would like to sell you.

This does not take into account, as recently admitted by the Secretary of Defense, \$4 billion a month just for our operations in Iraq, which I support.

My point is we can't afford to do this anymore. We can't afford to continue to spend money like drunken sailors. I never knew a sailor, drunk or sober, who had the imagination to spend hard-earned taxpayer dollars on the Shakespeare in American Military Communities Project—\$1 million. Shakespeare in America Communities Project? Come on. Out of the Defense appropriations bill?

The hangar renovation at the former Griffiss Air Force Base—the Griffiss Air Force Base in Rome, NY, was closed in 1995. It has been reopened to civilian flight operations. In 1999, the airbase hosted Woodstock. Yet we are going to spend money to renovate the hangar there. We are going to spend \$2 million. On a closed Air Force base we are going to spend \$2 million. Meanwhile, we still have men and women, wives and husbands and family members who are fighting in Iraq on food stamps.

I don't know what the Canola Oil Fuel Cell Initiative is. Canola is grown in the Western United States and Canada. Forty percent of each seed can be produced into canola oil. Prices for canola oil have dropped, I am sorry to say. But we are spending money for a Canola Oil Fuel Cell Initiative.

What does that have to do with defense?

Let me just add an additional comment. The very highly respected, I believe, Concord Coalition came up with a study in the last couple of days which is excoriating in its comments. I think it is right on the mark.

The Concord Coalition Report on Fiscal Responsibility:

#### DEFICITS, DECEPTION AND DENIAL RATE A FAILING GRADE

The first six months of the 108th Congress were the most fiscally irresponsible in recent memory. The crux of the program was the schizophrenic pursuit of small government tax policies and big government spending initiatives. Following the lead of the Bush administration, Congress made no attempt to reconcile the cost of new tax cuts on spending initiatives within the framework of a realistic long-term balanced budget plan. Instead, policymakers took a deteriorating budget outlook and made it worse. To add insult to injury, Congress used deceptive accounting gimmicks that would land a corporate CEO in jail. It is hard to say which is worse, the sunset gimmick used to hide the cost of an unaffordable tax cut, the doughnut hole gimmick used to hide the cost of an unaffordable, new Medicare entitlement, the shell games used to hide the appropriations of the disingenuous budget resolution that led to such in the first place. Then there was denial. Policymakers simply closed their

eyes to the inevitable cost of reforming the alternative minimum tax and the growing cost of the war against terrorism at home and abroad.

I commend the Concord Coalition report to my colleagues which gives a grade of a D and an F.

You know what we are doing. We are heading for a train wreck. Everybody knows it. I don't know whatever happened to the old lockbox. Do you remember the old lockbox where we were going to take everybody's money for Social Security and put it in a lockbox so it couldn't be touched? You know what we are doing with the lockbox. It is simply because we are paying the retirement benefits of people who are retired. Those who are working have no money in accounts bearing their names. It is unfortunate.

The summer blockbuster is not showing on your local movie screen but rather on the floor of the Senate. I am alarmed about a large green monster, and it is not the "Incredible Hulk." I am talking about the exploding national deficit, and it should make the blood boil. We are now learning that the irresponsible tax cut and spending binge in Washington is resulting in this huge deficit. Even "The Terminator" can't stop the river of red ink that is endangering our fiscal future. It is like the "Pirates of the Caribbean" stealing our children's and our grandchildren's financial future.

I thought that was pretty well written.

I recognize the failure. I want to tell my colleagues that I recognize that the failure of the authorizing committees to pass authorizing legislation contributes to the broken system.

I want to work together with the appropriators to try to solve this issue because often the appropriators have no choice but to fund unauthorized programs and take it upon themselves to make policy determinations.

The fiscal year 2002 Defense Appropriations Act not only contained \$3.7 billion in pork but also the dubious Boeing tanker lease. The conference report for the fiscal year 2002 Defense appropriations bill contained \$8.1 billion in pork. The Senate version included \$5.2 billion. This year's bill contains well over \$4 billion. This number is less than last year's Senate version of the legislation.

This is real money.

The projects that appear in the Defense appropriations Member-add-ons are items requested by Senators and not included in the President's budget request. They do not appear on the Joint Chiefs unfunded priority list. They are not authorized in the Defense authorization bill.

This criteria is used by many organizations. And it has been useful in ferreting out programs of questionable merit and determining the relative priority of projects requested by Members for parochial reasons.

The fact remains that in the years I have created these lists no offsets have been provided for any project.

At a time when some of our soldiers and sailors still receive food stamps and live in inadequate housing, we find a way to provide over \$4 billion in unnecessary spending through the Defense appropriations bill.

For example, the Joint Chiefs provided a list of critical requirements above what was provided for in the President's budget request. That list totaled nearly \$18 billion for fiscal year 2004. We should provide additional funding for defense for items and programs which the Joint Chiefs need, and we need to set that as a priority.

I point out once again that the bases in Alaska stand to benefit a great deal in this legislation. Alaskan bases alone will receive \$214 million in unrequested spending for improvements, renovations, and upgrades.

Looking back at my career in the Navy, I wish I had been so fortunate as to be stationed in Alaska.

Some of the more egregious examples of pork in this year's legislation include, as I mentioned, \$1 million for Shakespeare in American Military Communities.

What is wrong with Ernest Hemingway? I wonder why Shakespeare was the greatest writer in the English language. But there may be a difference of opinion as to who the greatest writers in the English language were. Why not Chekhov or Ibsen?

Forty-nine million dollars for the Maui Space Surveillance System. Arizona is home to an observatory. But we are going to earmark \$49 million to Maui while there are many observatories in the United States that offer many of these same benefits.

Two million dollars for miniature autonomous vehicles.

There is \$5 million for the bug-to-drug program. It is not often I bother the distinguished chairman but perhaps he can tell me what the bug-to-drug program is. There is an appropriation of \$5 million for the bug-to-drug program. While he is looking it up, I will continue.

There is \$1.5 million to educate the 21st Century Information Operations Workforce, \$2.5 million for the Hawaii Undersea Vehicle Test and Training Environment.

I mentioned there is \$2.5 million for the canola oil fuel cell initiative. I would think the only canola oil the Department of Defense should be investing in should be used for salad dressing for our troops, not inventing batteries.

Mr. STEVENS. Will the Senator yield?

Mr. MCCAIN. I would be interested in the bug-to-drug program.

Mr. STEVENS. The so-called bug-to-drug program has an official name. The official name is the Engineered Pathogen Identification Program. Its goal is to identify and protect soldiers from both unknown and genetically engineered pathogens, such as anthrax, plague, and Ebola. Currently, there are no pathogen vaccines. It would take 7 to 15 years to develop one.

This program is an attempt to shorten the time from drug development to its release for use as some type of an antigen to these pathogens which are very dangerous to our service men and women worldwide.

Mr. MCCAIN. I thank the chairman for that explanation. It makes it much more clear. I appreciate that.

There are a number of them. One of them that is interesting is \$9 million for SensorNet. SensorNet is developed by a company in Modesto, CA. They obviously make hardware and software because that is in their advertisement. In researching this earmark on the Web site, I found this 10- to 15-percent-off coupon on the Internet.

Now, I would ask my colleagues, if they are going to give average Americans 10 to 15 percent off, and we are going to give them \$9 million, could they give us 10 to 15 percent off? Maybe we could save over \$1 million. They are giving everybody else 10 to 15 percent off. Maybe they could give us 10 to 15 percent off as well.

This is the advertisement:

10-15% OFF—ORDER NOW AND SAVE

At AccuLab Products Group, we understand the difficulties of integrating science applications into the classroom. That's why we developed the SensorNet Science Program—the friendliest system on the market! Its ease of operation and flexibility offers the user wide ranges of applications without requiring a degree in computer technology. Our precalibrated, precision engineered probes offer the accuracy and reliability needed to perform in the toughest of situations and are backed by a 1 year guarantee.

So they are going to give 10 to 15 percent off. I would hope we could negotiate 10 to 15 percent off on our appropriation to them.

The hangar renovation at the former Griffiss Air Force Base, New York, the site of Woodstock 1999. Perhaps unintentional damage was done during Woodstock that requires that hangar to be renovated.

Of course, we are back to the old smart truck for the auto industry, and \$12 million for the 21st century truck. It would be fun to drive one, I am sure.

Here is an interesting one: \$4 million for the Ernest Gallo Clinic & Research Center. I love a fine wine as much as the next guy, I think, but do we need to fund Ernest Gallo or his research center with defense dollars?

Here is another: \$8 million for the New England manufacturing supply chain. This is above and beyond the \$6 million earmarked for them in last year's legislation. There is \$9 million for the medical free electron laser, \$1 billion for the brown tree snakes.

The Senator from Hawaii and I had a discussion about this item and the following items. The brown tree snake may be a serious threat to the Island of Hawaii. The question remains—and the Senator from Hawaii has never satisfactorily answered, at least not to my satisfaction—why this money has to come out of defense, why the brown tree snake should not be addressed by the Department of the Interior or the

appropriate branch of Government. Why do we have to take it out of the hides of the men and women in the military to fight the brown tree snake? Shouldn't it come out of the appropriate agency of Government?

We have \$150 million for breast cancer research, \$85 million for prostate cancer research, \$50 million for the Peer-Reviewed Medical Research Program, \$24 million for the Hawaii Federal Health Care Network, \$3 million for tribal colleges-science lab and computer equipment, \$3 million for Pacific Island health care referral, \$1.5 million for neurogenetic research and computational genomics—this is on top of \$650,000 included in this year's omnibus appropriations.

These are all worthy causes. The cause of breast cancer research is worthy. The \$85 million for prostate cancer research, it has no place in the Defense bill. When we are spending \$3.9 billion a day just to take care of our operations in Iraq, we cannot take much needed defense dollars and put it for other programs that are not related to defense.

So I want to talk about one other area that is of concern, and that is the potential impact on readiness because of our restrictive trade policies with our allies.

From a philosophical point of view, I oppose these types of protectionist policies. I believe free trade is an important element in improving relations among all nations and is certainly essential to economic growth. From a practical standpoint, "buy America" restrictions could seriously impair our ability to compete freely in international markets.

I would like to point out something else to my colleagues. We impose these "buy America" provisions while we buy from our allies and friends overseas a much smaller amount than they buy from us. If we keep restricting the ability of our Government to buy products that are made in other countries, sooner or later those countries will stop buying equipment, military equipment and others, that are built in the United States unless there is a compelling national security interest.

"Buy America" provisions include these items: anchor chains, carbon, alloy, or armor steel plate, ball and roller bearings, computers, diesel engines, and propellers.

There is a seafood waiver as a provision in this legislation in which we dictate we can buy only American seafood. I wonder if there is a 3-mile limit or a 10-mile limit or a 100-mile limit. Or does it have to be just caught by Americans, the same fish but caught by Americans, not by somebody else?

Why does the Department of Defense need to protect the American seafood industry? Why is the entire industry singled out for protection? Why not protect the American dairy product industry? Why aren't they covered?

Believe it or not, I do not enjoy coming to the floor on this issue. But I

would argue—I would argue strenuously—that with a budget deficit—and it is in the headlines of every major newspaper in America: \$455 billion—we cannot afford to spend additional billions on unneeded and unwanted projects.

There are many projects on this list that I will submit for the RECORD which are very badly needed and are legitimate but it is hard to know the difference when all we know is it appears in an appropriations bill. All of a sudden it just appears.

Was there a hearing on the issue of allowing the Department of Defense to only buy American seafood? That is a pretty significant measure that only American seafood can be purchased by the Department of Defense. Was there ever a hearing on it? Was there ever any discussion or debate on it? No. It shows up in this appropriations bill.

Do we really have to not allow other countries to sell us things as simple as anchor chains? What are we protecting? Could we save money by buying somebody else's anchor chain and spend that money, perhaps, on upgrading the lives of the men and women in the military?

In case you haven't heard, my friends, we have a problem in the military today, and it is keeping people in the Reserves and the Guard, and it is keeping people on active duty. I think if you watch television tonight you will see interviews with a number of men and women serving in the military who have just been told they will be extended for another 6 months on duty in Iraq because there are not sufficient troops to replace them.

So instead of perhaps expanding the size of the military to meet these new requirements, we are going to spend \$1 million on the canola oil fuel cell initiative, brown tree snakes, the Shakespeare in American Military Communities project, and an Academy for Closing and Avoiding Achievement Gaps. The Academy for Closing and Avoiding Achievement Gaps is a grant to the Timbuktu Academy located in Baton Rouge, LA to conduct research on academic achievement gaps between students of varying socioeconomic backgrounds. It sounds like a very worthy cause to me. But why again should this come out of defense dollars?

I appreciate the indulgence of my colleagues. The amendment I proposed will eliminate the canola oil fuel cell initiative, the Shakespeare in American Military Communities project, the brown tree snake funding program, hangar renovation at the former Griffiss Air Force Base, and the Academy For Closing and Avoiding Achievement Gaps.

I yield the floor.

The PRESIDING OFFICER. Galleries will refrain.

The Senator from Alaska.

Mr. STEVENS. Mr. President, we had a time agreement and the Senator from New Jersey and the Senator from Arizona have spoken. I will make a few

brief remarks and yield to my colleague. Then it is my intention to move to table these two amendments. Let me state why.

First in regard to Senator McCain's amendment, I state this sincerely, I think Senator McCain provides a very useful function for this Congress and this Senate with regard to the process we are involved in, the appropriation of money from the Treasury, spending the people's money. I am very sincere. We have checked every one of the amendments we have agreed to by unanimous consent with the Senator's staff before getting that agreement. That is a process we didn't use before. At times they make comments that lead us to change the amendments. And the Senator has, through this process, picked out some he would like to take out of the bill or put in the bill before we pull it out of committee. Let me comment on a couple of those.

The Senator mentioned the brown tree snakes. We have provided \$1 million for control of these snakes. That primarily is to continue a very successful program so far that has been carried out on military planes to Hawaii from Guam. These snakes are carried inadvertently on military planes to Hawaii from Guam. The snakes are endemic to Guam and come on the military planes at Anderson Air Force base in Guam and then go into Hawaii. We hope we can prevent it. It will have an enormously adverse impact on the agriculture sector of the economy. But it is a military function. It is trying to eradicate or control these brown snakes where they come from, as they have been a menace to Hawaii because of their ability to crawl on to military planes as they come to Hawaii from Guam.

I commend the Senator for raising the question, but clearly we have examined it. It is an ongoing program.

The canola oil fuel cell initiative is an existing program between the Department of Defense and the Department of Interior. It is funded in this bill for \$2.5 million. Both Departments put money into it. This project will extract and convert technologies, transforming agriculture materials into bio-based fuel. Specifically, it is the rapeseed-based biodiesel fuel, and the underlying goal is to convert bio-based fuel into a hydrogen-rich gas stream to use with fuel cells and micro turbines and other power generation systems. It does have a legitimate defense interest, and it is a program for the Department of the Army, primarily in research and development.

Shakespeare in American Military Communities is a very interesting program. This is being done in conjunction with the National Endowment for the Arts. It is a partnership with the Department of Defense. The goal is to bring the arts to military personnel and their families as they are brought to other communities and high schools throughout the country. The proposal for this year is to perform "Macbeth"

on 16 military bases in conjunction with educational programs. This is one of the programs the military is very pleased that we are trying to make available to them to improve the cultural activities on military bases, particularly for young children. We are looking into the prospect of taking some of these cultural programs overseas to meet the needs of the people stationed there. We have under consideration Fort Huachuca and Davis Monthan Air Force Bases. I know them both very well.

Further, the Senator raised the question of the Griffiss hangar renovation. This is part of a hangar that is used for the ongoing work and research of the Air Force research laboratory in Rome, NY. Damage to the hangar increases the heating, utility, and other fixed costs of the laboratory facility to its detriment. It is a renovation of a former Air Force base, but it is used by the Air Force research laboratory.

I regret to say I disagree with my good friend. I do note that what he is doing is trying to make certain we know what we are doing. On this amendment, I am sad to say I disagree with him, and I will move to table it in just a moment.

With regard to the amendment offered by Senator CORZINE, I have a problem, a decided problem with this. There is an ongoing investigation or series of hearings—I don't know whether you want to call it an investigation yet—of the items covered by this proposed amendment, creating a national commission on the development and use of intelligence related to Iraq.

Iraq is still ongoing. To create a commission now to look into Iraq primarily based upon the problem related to the President's statement in his State of the Union Message—which, by the way, was true, but not really totally accurate in terms of the interpretation people gave to it—in order to start the campaign of 2004, at a time when we have men and women in uniform over there now, their commanders, Ambassador Bremer, all of the people who participated in the process of this intelligence activity, including the CIA and the National Security Agency and the Defense Intelligence Agency, all of them will be involved in hearings before the commission. They are already in hearings before the House and the Senate, and they have unknown involvement in the internal investigation also going on in the Department.

As I said previously, almost all of us heard the Secretary of State, my great friend Colin Powell, tell us about his involvement and how this train of circumstances developed with regard to how that statement was in the President's State of the Union Message. We all know Presidents don't write their own State of the Union Message. They review drafts, and they rely on their

subordinates to see that they are absolutely accurate. In the process, a statement was inserted that could be interpreted in a way that could mislead people.

Already the Director of the CIA has admitted his system made a mistake. He has taken responsibility, as he should, for something that should have been taken out by the CIA reviewer. It was not. It was taken out of a previous statement at another time. No question was raised about its being taken out. In this instance, it was not taken out and Director Tenet said it should have been taken out. He takes the responsibility himself because of the failure of his Agency, just as I make a policy when any member of my staff makes a mistake, I treat it as my mistake. George Tenet didn't make the mistake. The process in the CIA made the mistake. The President didn't make a mistake. In the process of preparing that statement, there was a mistake made.

I am tired of making a mountain out of a molehill on this one. I am particularly disturbed with the fact that people want to create another commission. This is not a time for a commission like the commissions we have known in the past. This is not Watergate. That is the impression. This is not a Watergate. It is not even a "truth gate."

The President read a speech that was prepared for him. We all clapped at it, and we all approved of it. It was one part of it, one tiny part of it that should have been taken out in the process of review.

Now to create a commission primarily for that and all the rest of the garbage in this thing—pardon my French—all the statements in here as to what is going to be investigated with regard to the possession of mobile laboratories, with regard to an attempt to procure aluminum tubes—it wasn't an attempt; they were procured. But the concept of whether or not Iraq possessed delivery systems for weapons of mass destruction—we had 17 resolutions of the United Nations that were not complied with. Why were they passing 17 resolutions if there was nothing to investigate?

But the main thing, why should we create a commission now to look into something that is ongoing? Once this is all tied down and we have our people home and Mr. Bremer is residing in the U.S., and the people involved in all of the intelligence activities that led to the statement are in the United States again, we can have some form of commission to review it. This Senator would not oppose that.

But this is an ongoing operation, and this is an attempt to smear the President of the United States. I shall not permit that if I can possibly avoid it.

As I understand it, there is no further time agreement. I have the floor. I intend to keep the floor until I make a motion to table this amendment.

I am happy to yield to my friend from Arizona for a question.

Mr. MCCAIN. Mr. President, I will ask my colleague from Alaska a question. I will preface it by saying I do appreciate the cooperation that has been displayed while addressing this bill. I tell my friend from Alaska also that it has been very helpful for us to have the information and to be able to look at these amendments as they have come up. I hope next year we will see Hemingway, Faulkner, F. Scott Fitzgerald, and others of my favorite authors included in this program.

I also ask the Senator, concerning the Corzine amendment, isn't it true that the Senate Armed Services Committee is holding, and will be holding, hearings concerning the entire conflict, including friendly fire casualties, including the enormous success, including the issue of weapons of mass destruction; and those will be held openly and in a systematic manner, which Senator WARNER and Senator LEVIN have been working on in a bipartisan manner? Didn't the chairman of the Intelligence Committee hold a closed hearing today, and will he not hold a public hearing next week? Aren't we going through an orderly process of hearings concerning the conduct of the war?

The American people, of course, want to know about the friendly fire tragedy, and they also want to know how we did so well, how our equipment performed in such a magnificent fashion. It was one of the most rapid military victories in history.

Isn't it true that we are going through an orderly process of hearings concerning this conflict, in a very appropriate manner? If at such time those hearings are not satisfactory to the American people, or they don't cover enough information, or something like that, wouldn't sometime later be more appropriate to say a commission should be appointed rather than at the time when the appropriate committees, as far as I can tell, are carrying out their responsibilities and reviewing the conduct of the war and the oversight policies dictating our military? Does the Senator agree with that?

Mr. STEVENS. The Senator is absolutely correct. What is more, Senator INOUE and I went to the CIA and we talked to the Director, and he informed us that he sent a stack of material this high to the committee already for its review. It is going to take some time to review all that. It is ongoing. This would have us appoint a commission to review the same thing that we are already investigating in the Senate Intelligence Committee and that the House is investigating. I presume the Armed Services Committee has some jurisdiction on this matter, also. The Foreign Relations Committee has jurisdiction.

Why should we appoint a commission to do what we should do—to do our work, particularly when it is not on a timely basis? As the Senator from Arizona stated in his question to me, the

time may come when the public will question the results of our activities as Members of Congress. If they do, then the right thing for us to do—or the time may come when they develop such a conflict within Congress that it cannot be resolved, and that would be an appropriate time to perhaps look at a commission outside of the Congress. But right now is not the time.

Mr. BOND. Will the chairman yield for a question?

Mr. STEVENS. Yes, I am happy to yield.

Mr. BOND. Mr. President, as a member of the Intelligence Committee, I know we have been having these hearings and the oversight hearings. We are conducting the investigations. I wonder if the chairman is aware of the fact that I believe the Office of the Inspector General of the CIA is conducting an investigation. I believe the President's Foreign Intelligence Advisory Panel had jurisdiction. Is it correct that the ranking member of the Armed Services Committee, Senator LEVIN, is conducting an inquiry?

At my count, at least five different investigations are going on. I wonder if that number is accurate, and does the chairman think that a sixth, which would not start until later on, would add anything?

Mr. STEVENS. Mr. President, the question is relevant because the purpose of this commission is to support ongoing congressional reviews regarding the collection and analysis of intelligence data. We have not done it yet. We don't need any support that I know of. The support base is the executive branch and in the media to examine the report and the role of policymakers relating to Iraq and Iraqi freedom. That is not over yet.

Again, there is a timeliness to commissions. But more than that, there is the ongoing impact coming into this Senator's soul that we are starting a campaign of 2004. It is too early to do that, when we have men and women overseas in uniform trying to defend themselves and carry out the orders of the Commander in Chief. It is not timely to do this, and I do object to it.

Mr. President, I don't often do this. I am really going to be a little bit brash—you could not imagine I would do that, I am sure. Does the Senator from Nevada wish to ask a question?

Mr. REID. No. I was hoping we could vote on Corzine first and McCain second.

Mr. STEVENS. I was going to make that order. I am pleased that the Senator said that.

Mr. President, in order that the Senator from Hawaii and I can go to an appointment we have involving World War II veterans, I will take it upon myself to move to table the Corzine amendment and to ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent at this time that it be in order to move to table the McCain amendment, and for that purpose I ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection. Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, for the information of the Senate, following these two amendments, there will be a period for routine morning business.

I ask unanimous consent that following the votes there be a period for routine morning business, and that the Senator from Rhode Island, Mr. REED, make a statement.

Mr. REID. He wants to speak on the bill. After that, we will go into morning business.

Mr. STEVENS. Mr. President, Senator REED will be making a statement on the bill. Following his statement, I ask unanimous consent that there be a period for routine morning business until the Senator from Hawaii and I have returned from our event, which will be, I believe, about 8:15.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, the only question I ask is this: We would love to have you back here, but I don't think there is need to come back tonight. We have a schedule set up for the morning.

Mr. STEVENS. We have not done that. We need to have the time to do that.

Mr. REID. If the Senator from Alaska wants to be here to do that, that is fine, but otherwise, valiant staff will take care of it and whoever is closing. We will see you back. That is fine.

Mr. STEVENS. Mr. President, in explanation, it is my intent to come back. The Senator from Hawaii will not have to come back. We want to enter into a unanimous consent agreement for the order of amendments. There will be two amendments. At 10 o'clock Senator BYRD will offer an amendment. I believe we will have an order for the Senate to come in sometime just prior to 9 o'clock.

Mr. REID. Nine o'clock is fine.

Mr. STEVENS. I am not going to make that order yet. That is the understanding I have, that we will come in around 9 o'clock and consider two amendments, and Senator BYRD is to offer his amendment at 10 o'clock.

I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. COLEMAN). The yeas and nays have been ordered on these requests.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1275. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr.

KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—51

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bennett	Ensign	Nickles
Bond	Enzi	Roberts
Brownback	Fitzgerald	Santorum
Bunning	Frist	Sessions
Burns	Graham (SC)	Shelby
Campbell	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner

NAYS—45

Akaka	Dodd	Leahy
Baucus	Dorgan	Levin
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kohl	Schumer
Daschle	Landrieu	Stabenow
Dayton	Lautenberg	Wyden

NOT VOTING—4

Graham (FL)	Lieberman
Kerry	Miller

The motion was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1270

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1270. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Missouri (Mr. BOND) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—79

Akaka	Dayton	Lugar
Alexander	DeWine	McConnell
Allen	Dodd	Mikulski
Baucus	Dole	Murkowski
Bayh	Domenici	Murray
Bennett	Dorgan	Nelson (FL)
Biden	Durbin	Nelson (NE)
Boxer	Edwards	Pryor
Breaux	Enzi	Reed
Brownback	Feinstein	Reid
Bunning	Frist	Roberts
Burns	Gregg	Rockefeller
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Hollings	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith
Chambliss	Inouye	Smith
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Coleman	Kohl	Stabenow
Collins	Landrieu	Stevens
Cornyn	Lautenberg	Talent
Corzine	Leahy	Voinovich
Craig	Levin	Warner
Crapo	Lincoln	Wyden
Daschle	Lott	

NAYS—16

Allard	Graham (SC)	Nickles
Bingaman	Grassley	Santorum
Conrad	Hagel	Sununu
Ensign	Jeffords	Thomas
Feingold	Kyl	
Fitzgerald	McCain	

NOT VOTING—5

Bond	Kerry	Miller
Graham (FL)	Lieberman	

The motion was agreed to.

Mr. FRIST. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I rise in support of the fiscal year 2004 Defense appropriations bill.

First, I would like to congratulate Chairman STEVENS and Senator INOUE on an appropriations bill that has widespread, bipartisan support. It is never an easy job to bring this bill to the floor and, as usual, they have done an excellent job.

One of the most important aspects of this bill is the commitment that the Senate is making to improve the lives of the service men and women who protect us every day.

The bill provides a well-earned, average military pay raise of 4.15 percent and funds an increase in the basic allowance for housing to reduce our service members' average out-of-pocket expenses from 7.5 percent to 3.5 percent.

That being said, one of the most important aspects of this bill is its commitment to transformation.

Now, we have heard this word being used during the last few years in conversations relating to defense matters. So what does it mean?

Simply put, "transformation" is about changing the way our Nation's military operates, through the utilization and development of innovative tactics based upon new technologies and, of course, our most important resource—the hard work and training of our service members.

Transformation could be seen in the recent conflict in Iraq. Here, instead of

a long, sustained air campaign, our forces were able to achieve a tactical surprise using precision weapons that destroyed our adversaries' ability to react to our initiatives.

As I have mentioned before, transformation could also be seen during war when information was gathered from a variety of sensors, whether on the ground or in the air, and that information was transmitted very quickly to commanders who could then exploit the weakness of our enemy. It was a remarkable operation and it reflects the high level of competence and expertise of our Nation's service men and women.

The appropriations bill continues this revolution by funding such programs as the development and procurement of such new systems as the DD(X) destroyer, the littoral combat ship, C-17 air transport, V-22 tilt-rotor and the Army's future combat system.

I am particularly pleased that the Appropriations Committee has recommended funding for the procurement of 22 F/A-22 Raptors.

This program lies at the heart of transformation. The F/A-22's supercruise engines allow for extended supersonic flight. This is a magnitude longer than its afterburning predecessors such as the F-15. The aircraft's stealth characteristics will allow it to penetrate even the most advanced air defense systems while internally carrying GPS-guided munitions. This will allow the F/A-22 to clear the skies of enemy aircraft while nearly simultaneously attacking both fixed and mobile targets, such as surface-to-air missile sites. I hope that the authorizing committee will join the Appropriations Committee in recommending the procurement of 22 of these vital aircraft.

I would also like to highlight a program that I support, the Full Spectrum Active Close-in Layered Shield, or "FCLAS", which is a revolutionary new technology promising to enhance dramatically the survivability of existing and future mechanized and wheeled combat vehicles without the normally accompanying weight gain. FCLAS has the potential to save many American lives and it is an important step for the committee to fund this system.

FCLAS works by using radar to detect an incoming kinetic energy weapon, antitank missile or rocket-propelled grenade. Once the incoming object is identified, FCLAS fires an explosive projectile to destroy the threat at a safe distance from the vehicle.

Such a system is currently under development in Russia, Canada and France. However, those systems, unlike FCLAS, have a fatal flaw. Their radar systems are placed in a prominent position and can be easily disabled with a single rifle shot.

In contrast, each FCLAS defensive explosive projectile has an individual radar system. FCLAS is placed around the protected vehicle in a device similar to a smoke grenade launcher. That means if the radar is damaged in one

projectile the rest of the vehicle's active protection is unaffected. It also provides the same level of protection from every side and angle of the vehicle. The system is remarkably light and has drawn considerable interest by those designing the Army's Objective Force.

Currently, officials at the U.S. Army Tank Automotive Research, Development and Research Center are testing FCLAS and by all accounts they are very pleased with the system's initial results. The Marine Corps and Special Operations Command have also expressed strong interest in adapting this system for use in both land vehicles, such as the advanced amphibious assault vehicle and even aircraft.

In closing, again, let me express my commendations to the chairman, the ranking Democratic member, all of the members of the committee, and their capable staffs, for their work on this bill. It will be of great service in the support of our Nation's service men and women.

Mrs. FEINSTEIN. Mr. President, I rise today to express my deep concern that the fiscal year 2004 Department of Defense appropriations bill contains no additional funds for military operations in Afghanistan and Iraq. This is simply unacceptable and raises serious concerns about the administration's long-term intentions in both countries.

Given the commitments of the men and women of our Armed Forces all over the world and the risks they face in defense of our freedoms and national security, I am committed to providing the tools they need to perform their jobs at the highest level. It is surprising and troubling, then, that two of the most significant and critical deployment of U.S. troops in years—Afghanistan and Iraq—do not receive funding in the fiscal year 2004 Defense appropriations bill.

Clearly, these are not emergency situations that have only recently come to our attention. These are ongoing military operations that will most likely require a substantive American presence for years to come.

One hundred forty-five thousand U.S. troops are currently serving in Iraq facing almost daily attacks from guerrilla forces. Eighty-one Americans have died since the President declared an end to major combat operations on May 1, 2003.

In Afghanistan, 8,500 U.S. troops are searching for remnants of al-Qaida and the Taliban and trying to stabilize the interim government of Hamid Karzai. Just yesterday, more than a year and a half after the fall of the Taliban, a U.S. Special forces convoy came under attack by unknown gunmen using small arms and explosive devices.

Americans are putting their lives on the line in Iraq and Afghanistan and we cannot find any funds for them in this bill.

These operations are certainly not cheap.

During testimony before the Senate Armed Services Committee last week,

Secretary of Defense Donald Rumsfeld stated that the U.S. has spent nearly \$4 billion a month in Iraq since January and is spending an additional \$700 million a month in Afghanistan. He continued that he did not know if the figures for Iraq would go up or down in the next fiscal year or how much the administration intends to propose to Congress for military operations in Iraq.

Surely the Defense Department, in fact, has some idea about the funds it needs for Afghanistan and Iraq—and those commitments should be reflected in this bill.

Silence on this matter causes me great concern that our troops will serve far longer than we are being told and the cost will be far greater than we have been led to believe.

I urge the administration to level with the American people and this Congress about the costs of our engagements in Iraq and Afghanistan. The fiscal year 2004 Department of Defense appropriations bill is exactly the appropriate mechanism to do just that.

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate resumes the Defense appropriations bill on Thursday, Senator HARKIN be recognized to speak for up to 25 minutes.

I further ask unanimous consent that the next order of Democratic first-degree amendments be the following, and further that if a Republican amendment is offered it be interspersed between the amendments mentioned: Dodd, Byrd, Wyden, Durbin, Biden, Byrd, Kennedy, Byrd, and Schumer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, there will be no further rollcall votes tonight. I understand that under the order Senator REED is to be recognized for up to 30 minutes. I ask unanimous consent that following his remarks my colleague, the Senator from Tennessee, be recognized to speak as if in morning business for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, under the agreement entered earlier, we have a lengthy lineup of Senators who intend to offer amendments to the Defense appropriations bill, as I just outlined. We will be voting throughout the day tomorrow and into the evening in order to complete this measure tomorrow afternoon or evening.

I have had a number of discussions with the chairman of the committee. As he announced a few hours ago, if the Senate completes action on this bill, and if the Senate can begin consideration of the Homeland Security appropriations bill on Monday, the Senate will not be voting on Friday.

I will have more to say tomorrow on the schedule for this week and next week, after we have made further progress on the pending legislation.

I thank my colleagues. We continue to make good progress. I think it is

clear if we finish tomorrow night, there being no votes Friday—and Monday is a no-vote day—we will be able to continue on Homeland Security early Monday during the course of the day.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized.

Mr. REED. Mr. President, just a few days ago I had the privilege of traveling, with Senator WARNER and Senator LEVIN, and other colleagues, to Iraq. I wish to comment upon my observations of that trip in the context of this Defense appropriations bill.

After the most stunning victory in the annals of military history, the fighting and dying in Iraq goes on. The war is not over. It has changed its character. Conventional warfare of major formations against major formations has yielded to hit-and-run attacks against our troops. We are in a tenuous moment where the momentum of the battle has shifted from our coalition forces and may shift dramatically to opposition forces in Iraq.

We are being opposed by groups of Baathist diehards, Islamic fundamentalists, and criminals. Although this resistance, until recently, appeared to be uncoordinated and spasmodic, there are strong signs emerging that organizations are beginning to coalesce and we are facing a much more serious threat.

Just today, in Iraq, a manned portable air defense missile was fired at an American aircraft over Baghdad International Airport, signaling a major escalation of the capabilities of our opponents and the ability of these opponents to interfere with our occupation forces in a significant way.

Another American soldier died. The mayor of an Iraqi city was gunned down. Indeed, today General Abizaid indicated that we are facing a classical guerrilla-type war situation. And I must say, General Abizaid is a person I had the privilege of serving with 30 years ago in the 82nd Airborne Division. There is not a more talented and dedicated and decent officer in our Army or our military force. His expertise and knowledge make him the most capable person we could have there. So his conclusion, I think, is one that should resonate through these halls.

Now, if one of these groups—Baathists or fundamentalists, radicals, or criminals—becomes more coherent in their efforts—and it seems, based on today's events, they are becoming more coherent—then the danger to our force will rise.

Let me suggest this is a startling revelation today. It was difficult to bear the sight of American troops being hit with RPGs, rocket-propelled grenades, but to have the capability and the cunning to launch a missile against an aircraft in Baghdad should send shivers down our spine, not just with respect to Baghdad but throughout the world.

One of the issues which I am sure they are desperately trying to deter-

mine today is: How many of these manned portable missiles are there in Iraq? I do not know for a fact, but I would suggest there are hundreds, if not thousands.

While we were visiting the northern area of Iraq under the control of the 4th Infantry Division, General Odierno, the commander, indicated they had identified and were securing almost 3,000 ammo dumps, including small arms, all the way up to medium-range missiles with about a 100-kilometer range. This country is chock-full of RPGs and other weapons. The other question is: If they are in Iraq today, have some of these manned pads exfiltrated out of the country into very dubious hands? We face a serious issue.

Now, if all of these elements are able to come together with a common purpose—the Baathists and the criminal elements and the radical fundamentalists—we have a very serious challenge. And, most important, if any one or all of these groups can tap into an innate nationalism among the Iraqi people, if they can translate their disappointment about their economic position today, their dashed expectations of what liberation would mean, then we have a great challenge to our occupation of Iraq.

To dismiss these forces as inconsequential or without support, I think, is a serious mistake. What they may lack in popular support and skill—although, again, their demonstrated performance increases each day—they can make up in desperation and fanaticism. There are remnants of Saddam Hussein's regime. The disgruntled Baathists have no place to go, and they know it. For them, it will be a fight to the death.

In Chris Hedges' brilliant polemic about the corrosive effects of war, entitled "War is a Force That Gives Us Meaning," he described a visit to an Iraqi prison in Northern Iraq that was liberated at the end of the Gulf War. In his words:

When it was attacked in 1991 by Kurdish fighters and enraged civilians, 300 Iraqi secret policemen and guards, including the warden, held out for three days. None of the defenders survived. And after the battle, a triumphant fighter expressed the wishes of many. In his words:

We wanted them all to come back to life . . . so that we could kill them again.

This is the nature of the struggle and the combatants in Iraq. There are thousands of former secret police and Fedayeen, not just the 52 cards in the famous deck. We can expect fierce and persistent resistance from most if not all.

It is no surprise, then, that our military commanders assume that the situation in Iraq will get worse before it gets better. We should be prepared for continued casualties on a frequent basis. Indeed, we should be prepared for heavy casualties on given days.

Again, this is absolutely consistent with General Abizaid's conclusion that we are in a classic guerrilla war struggle today.

The most obvious objective of opposition forces is to inflict sufficient casualties on our troops so that support within the United States for a continued presence within Iraq will erode and evaporate. As such, our immediate response must be to communicate to the American people that the road ahead will be difficult. We are likely to sustain constant casualties, and we must commit significant resources to the struggle to rebuild Iraq.

That is why the absence of appropriations in this bill for our effort in Iraq is unfortunate. The administration has not requested funds so this absence is not the fault of the committee. It represents a very deliberate policy of the administration to avoid declaring to the American public, in an explicit fashion, the true course of our operations in Iraq.

We all anticipate that the administration will make a supplemental request early next year and argue that the funds are critically needed to cover costs that have already been incurred. But the American people deserve something better. They should know these costs now.

Having decided to use military force to eliminate the regime of Saddam Hussein, we cannot walk away from the difficulties of pacifying and rebuilding Iraq. We may come to seriously question the commitment we have undertaken, but to walk away at this point from the challenge would deal a serious blow to our prestige and power in the international community. To ensure that we stay the course, it is essential the American people know the costs, and the cost of our passage.

Our efforts in Iraq ultimately depend on the attitudes of the Iraqi people. They will be the final judges of our policies and our continued presence. At present, the long and terrifying shadow of Saddam Hussein continues to bedevil them. Many of our military officers and our civilian administrators attribute the noncommittal attitude of the Iraqis to the continuing uncertainty of Saddam's fate. There is much truth to this assertion. But we should be careful not to see the capture or death of Saddam as the "silver bullet" that will transform our presence in Iraq.

The Iraqi people seem to be withholding their enthusiastic endorsement for our efforts not just to await the fate of Saddam, but to be assured that the coalition can deliver at least the same degree of economic security they enjoyed under Saddam and, hopefully, much more.

It strikes me that the Iraqi people are not simply motivated by a residual fear of Saddam. They have grown up in a system that provided meager sustenance in exchange for utter subservience, a subservience that was enforced by ruthless terror. It will take more than Saddam's demise to erase this pervasive authoritarian culture. It will take many years and significant improvements in every phase of Iraqi life.



The most pressing demand in Iraq today is to provide a secure environment for our forces and for the Iraqi people. That challenge is inextricably linked and bound up with the economic revitalization of Iraq. Coalition forces are occupying a country whose economy has collapsed. Iraq under Saddam was a country in which everyone directly or indirectly worked for the regime. And now the regime is gone. Perhaps the single greatest long-term danger to our efforts is the huge number of unemployed. Unless we can rapidly put these people to work, they will be vulnerable to the overtures of those who wish us ill. We are in effect in a sprint to revive the Iraqi economy before the Iraqi people decide that freedom is not worth the uncertainty of a dysfunctional economy, and they become susceptible to the overtures of those who want to eject us from Iraq.

Another pressing demand is to create a legitimate Iraqi Government acceptable to the Iraqi people. We have begun to take the first steps in that process by the selection of a governing council. This council will exercise defined powers such as the appointment of Iraqi ministers. All of their actions, however, are ultimately subject to the veto of Ambassador Bremer. The council was selected to reflect the ethnic, religious, and demographic realities of Iraq. That was a positive and appropriate step. This council will participate in the selection of a larger convocation that will draft a constitution for Iraq.

All of these efforts are leading up to putting, as so many people have said, an Iraqi face on the Government of Iraq. We all realize that the longer we appear to be running the show, the more likely it is that opposition to our presence will grow.

At this juncture, we have avoided ceding authority to any one faction in Iraq. We are for the moment holding the various factions at bay. But this balancing act will become more and more difficult as we approach the time when real power is transferred to a real executive. At that point, the traditional rivalries of Sunni and Shia and Kurd will emerge and emerge with some force.

One aspect of the new governing council that I find troubling is the attention and influence given to exiled leaders. According to a report in the *New York Times*:

... significantly, the new interim government will be dominated by the Iraqi exile leaders and Kurdish chieftains who carried out the long campaign to remove Saddam Hussein from power.

Given the presence of Kurds in northern Iraq and their obvious power—they have their own army; they control their own territory—it is not surprising that they would have a major role. But giving such a significant role to the exiles seems likely to be more controversial than constructive.

The best known of these exiles is Ahmed Chalabi. Chalabi has long re-

sided outside of Iraq. In 1992, he was convicted in absentia by a Jordanian court for embezzlement and bank fraud. He was sentenced to 22 years in prison. It is not surprising that reaction to Chalabi and the exiles is not entirely favorable.

Hassan Zahrawi, a 23-year-old student at Baghdad's Mustansariya University, was quoted in the *Washington Post* as saying:

We are the people who suffered. . . . They are thieves. They do not know anything about the suffering of the Iraqi people.

This certainly is not a scientific sampling. You could perhaps find people who would endorse Mr. Chalabi. But I think we are taking a risk by inserting, insinuating exiles in a dominant place in this governing council. I think that will strike a chord in Iraq and not a favorable chord as people who have suffered, who have very little, see these people who have just arrived dominating the political process. It could be a severe miscalculation.

Let me suggest another potential miscalculation. I read with great interest Ambassador Bremer's op-ed piece in the *New York Times*. One quote struck me:

Our economic reform plan will entail a major shift of capital from the value-destroying state sector to private firms.

No one could disagree with that logic. But I think we have to be very careful that we do not replicate the experience we have seen in Russia, for example, where the winners of this transition of capital from the state to the private market were the insiders, the people with the connections, the people who were able to influence the government. We have made serious mistakes in our occupation planning. I hope we don't compound those mistakes by creating a government that has no legitimacy really and that serves simply as a conduit to enrich those who are participating in that government.

All of these concerns resonate throughout a country with distinction and disparate regional characteristics. On our trip, we visited Basra in the south, Baghdad in the center of the country, and Kirkuk in the north. The southern portion is predominantly Shia. They are engaged in a very careful balancing act between Iranian influences and their desires to participate in a secular government but certainly participate so that their religious culture is recognized. They are the largest population group in Iraq. We have been working with them. In the south my impression is that they are still weighing all of their options, and we have to be extremely careful.

In the north there is a significant population diversity, Kurds, Turkmen, Assyrians, Arabs. They are much more comfortable with our role there. They have seen the example of several years of a virtually autonomous region the Kurds established after the 1991 war.

The most stable regions at the moment seem to be the north and the south, although there are incidents of violence in all parts of Iraq.

But the key point, the most dangerous place is Baghdad. There in the suburbs leading to the west towards Falluja and up towards the north, toward Tikrit, the ancient home of Saddam and his tribal relatives, that is where the action is, that is where our soldiers are, frankly, being killed.

Our biggest concern at the moment is intelligence. Frankly, we did not expect this type of operation, and we are rapidly and diligently trying to understand who is attacking us, where they are getting their weapons and money and their support and supplies. Are their foreign influences? How many foreign fighters have come into Baghdad? We are in a race to find out about them before they do us even more grievous harm.

There is, of course, the issue of how many troops we should have in Iraq. I have heard reports that General Abizaid will recommend force strength in-country of about 160,000 soldiers and sailors, marines, all of our Armed Forces participating in one way or the other. That is a function of how much we know. My sense is that if we don't know who the enemy is, if we have uncertain threats from multiple directions, then we will err on the side of more troops rather than fewer. This situation could go on for a very long time.

There are those who have said we have gotten ourselves into another Vietnam. No, we haven't. That was a different time, a different place, a different situation. We don't have a rural insurgency as we did in Vietnam. We don't have a country that is a proxy for international politics being supported and encouraged by a significant infusion of foreign resources, wealth, and guidance. But we very well might have our own version of Belfast or the Intifada, urban guerrilla warfare in which there is insignificant foreign support at the moment but, as I indicated before, more than enough people who are determined to attack us and to hurt us.

As we traveled around in Iraq, we talked about the issue of weapons of mass destruction. Just one point: I assumed in my deliberations that the Iraqi regime would have chemical and biological weapons, but I assumed that they did not pose an immediate threat to the United States. Therefore, I did not vote to authorize the unilateral use of force. We have been surprised. But now what I sense is happening is that the search for weapons which so many declared were absolutely there and were so critical in their decision to mount a unilateral military attack, now that has been transformed into a search for a program. I wouldn't be surprised that in the months ahead, based upon analysis of documents, that some type of program emerges.

But with each passing day, it seems less and less likely that we will find a militarily significant concentration of chemical or biological weapons. I thought there was no credence to the

claims by the President and others that there was an ongoing nuclear program in Iraq at the time, and I think that will be borne out.

Now, all of this leads me to several conclusions. One is particularly pertinent to this appropriation. Our Army and our marines—particularly our Army—are stretched thin, taut. They won't break because they are magnificent soldiers. They are under extraordinary pressure.

Let me suggest where our Army is. We have 370,800 soldiers in 120 countries, not just Iraq. In Iraq itself, we have the 3rd Infantry Division. These are the troops who led the fight into Baghdad. They have been told they are going home; they have been told they are staying. Once again, decisions have been reversed because of the situation. They are good soldiers. They will do their job, but certainly this is not the way to have a good plan, to rotate and move soldiers throughout the world.

The 4th Infantry Division is in the north. The 101st Airborne Division is in the north in Mosul. The 1st Armored Division has elements in the country. The 173rd Airborne Brigade conducted a parachute assault in the first days, and they are in Kirkuk. The 2nd Brigade of the 82nd Airborne is there. The 2nd and 3rd Light Cavalry Regiments are there. There are about 134,000 soldiers, together with 44,000-plus soldiers in Kuwait for supporting operations. In Afghanistan, we will have, by the end of summer, two brigades of the 10th Mountain Division. In the Balkans, we have the 34th National Guard Division from Kansas. In Kosovo, we have elements of the 1st Infantry Division, which will be replaced shortly by the Pennsylvania 28th National Guard Division. In the United States, we have soldiers deployed in counterdrug and other operations. Our Reserve elements are the 1st Cavalry Division, 1st Infantry Division Brigade, and we have new Stryker battalions or brigades up in Fort Lewis, and one in Alaska.

This is an extraordinary deployment of American forces. Included in the total are a significant number of National Guardsmen. These National Guardsmen and Reserve are one part of our great Army—one whole unified element.

I have left for last Korea. We have 37,000 soldiers there from the 2nd Infantry Division. I was shocked when I read yesterday of Secretary William Perry's conclusion that we are in a serious crisis with North Korea. Over the last few months, the administration has been trying diplomatically. But Secretary Perry, who is probably the most knowledgeable and experienced with respect to North Korea, is now convinced that we might have missed our opportunity for diplomacy to work.

One of the factors that goes into our strategy is whether we can complement our diplomacy with real military force. There is not much left to do that. Those 37,000 soldiers from the 2nd Infantry Division are not the kind of

combat power you need to stare down the North Koreans if there is a serious breach of the current situation. But we are stretched thin. We cannot pull forces out of Iraq. We would jeopardize the mission there. We cannot pull them out of Afghanistan. We would jeopardize that mission. We have to consider what is most important for the Army, and we have to make decisions. Those decisions have to come to us quickly from the Department of Defense. What will we do?

This bill should have considered and included those types of recommendations—not our ideas, but the proposals of the Department of Defense and the administration, and there is scant detail with respect to Iraq and potential conflict with Korea. I hope diplomacy will work. But we have discovered that diplomacy without credible and complementary military forces is not as effective. This is a situation where we are stretched and we have an ongoing classic guerrilla war in Iraq, we have a situation in Afghanistan that is unstable, and we have a potential crisis in Korea. We need recommendations from the Department of Defense about where we are going to get soldiers to take these missions. I had hoped this bill would include such information. It doesn't.

Certainly, I am going to support the legislation, but I hope these questions are answered very quickly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

#### STEEL TARIFFS

Mr. ALEXANDER. Mr. President, President Bush is working very hard to get this economy moving again. I have strongly supported his jobs growth and tax cut plans. I believe his hard work and those plans are paying off. But in one case I want to respectfully suggest that the President consider making a midcourse correction. That case is the sad story of steel tariffs. It is a story of an honest effort by our President to save jobs that has backfired.

The backfire could not be coming at a worse time. As our economy recovers—and I believe that it is—the last thing our country needs is a wave of plant closings in the auto and auto parts industry. But that is exactly what will happen if the steel tariffs continue. The tariffs have become a job killer in the United States and a jobs growth program for Korea, Japan, Germany, and other countries that produce quality auto parts.

In March 2002, the Bush administration imposed tariffs of up to 30 percent on 10 different categories of steel imported from Europe, Asia, and South America. The tariffs may have saved a few steel-producing jobs for the time being. But since their institution in March 2002, the steel tariffs have already destroyed nearly as many jobs in the steel-consuming companies of America as exist in the entire domestic steel-producing industry.

Some auto parts plants in my State of Tennessee are already closing because of the higher cost of steel imposed by the tariffs. On top of that, last Friday the World Trade Organization ruled that these U.S. Steel tariffs are illegal and in violation of global trade rules. The European Union has already announced that it intends, therefore, to impose \$2.2 billion in retaliatory sanctions on American imports sold in Europe, ranging from footwear to fruits and vegetables. And that would destroy still another batch of American jobs.

If these steel tariffs continue through the years 2004 and 2005, as scheduled, there will be a wave of plant closings across Tennessee and other steel-consuming States, especially among auto parts suppliers. Ironically, many of the steel-producing jobs themselves will also disappear for two reasons: One, when the tariffs eventually end, the protected and inefficient steel mills will find they are unable to compete in the world marketplace. And second, the demand in this country for this kind of steel will have dropped because automakers and auto parts suppliers will be buying parts overseas instead of buying U.S. steel to make parts in the U.S.A.

Fortunately, the President has an opportunity in September to review the decision that he made in March 2002 to impose steel tariffs. I respectfully urge him to chalk this one up to experience, to acknowledge that this exercise proves once again that protective tariffs are self-defeating and usually boomerang and to finally end the tariffs. Ending the tariffs would allow America's steel-consuming auto parts manufacturers and other American manufacturers a fair chance to make their products in the U.S.A. instead of overseas.

I began to first notice the effects of the new tariffs during my campaign for the Senate during 2002. Tennessee is home to at least 900 auto parts suppliers employing almost 100,000 people. Let me describe just how important these jobs are to us Tennesseans.

Before the auto industry came to Tennessee in 1980, we were the third poorest State. Only Mississippi and Arkansas were below us in family incomes. Our average family incomes were 80 percent of the national average family income. Then Nissan came to Tennessee. Then Saturn came to Tennessee. Then BMW and Toyota and other automobile plants put their assembly plants in other parts of the South and the Southeast.

These automakers wanted just-in-time quality auto parts suppliers close by. So to attract them, Tennessee built the best four-lane highway system in the United States. As a result, and as a result of our central location, over the last 20 years, the number of auto parts suppliers in our State has grown phenomenally, from a couple dozen to at least 900. These auto parts suppliers became the greatest contributors to a new prosperity in our State.

During the 1980s, Tennessee became the fastest growing State in family incomes. Our incomes by 1990 became 100 percent of the national average family income—from 80 percent in 1980 to 100 percent by 1990. During this time, of course, we were losing many other jobs, especially in the textile industry, but the textile jobs were being replaced by new higher paying jobs in the auto industry, and these auto parts plants usually came to smaller communities, to Shelby, to Rogersville, to Lexington, and to dozens and dozens of smaller Tennessee communities, usually adding 100, 200, 300 \$30,000- to \$50,000-a-year jobs with good benefits. And because labor costs of these auto suppliers are low—typically 15 to 25 percent of the cost in an auto supplier's budget is labor cost these higher wages are not enough of the whole total to justify having to move the plant overseas.

At a time when our greatest challenge seemed to be how do we keep our manufacturing jobs from moving to China or to Mexico or to Southeast Asia, the auto parts suppliers in Tennessee seemed like a godsend. They were good jobs that seemed likely to stay—stay, that is, unless some unexpected new costs forced the auto plants and suppliers to look outside the United States for a more competitive environment.

Enter the steel tariff. The President's decision in March 2002 boils down to this: It slapped a tariff of up to 30 percent on 10 different categories of imported steel. For Tennessee, most of it affected hot and cold rolled steel, the kind that is used to make cars and trucks in our country. Here is the irony. At the time of the tariff in March 2002, many auto parts suppliers in America were buying only about 5 percent of their steel overseas. In other words, of about \$5.4 billion the U.S. auto industry purchased in 2002 of steel, only about \$270 million came from overseas. But as soon as this tariff was placed on the 5 percent that came from overseas, domestic steel producers in this country raised their prices on the 95 percent of steel that was being produced in the United States, and suddenly auto parts suppliers and other steel-consuming businesses were paying up to 30 percent more for all their steel. In some cases, even more than that because of shortages.

In addition, steel companies broke their contracts in order to charge higher prices to auto parts suppliers. The auto parts suppliers then turned to their customers, the big automobile companies, and tried to pass along these price increases. The answer from the auto companies was: Sorry, we are cutting costs; we are not increasing them. So because the auto suppliers could not raise prices to cover increased costs, they suffered losses, and they began to lay off employees. In a few instances, entire plants closed.

Both the automakers and the auto parts suppliers began to consider the

next logical step: looking offshore in another country for a place to build parts where steel is cheaper and is pegged at the global market price, not an artificial price as it is here.

Most small American manufacturers live on the edge. They are constantly under pressure to cut costs, and if costs cannot be cut, they cut a job or two. And if cutting a job or two does not do it, the only option is to move all the jobs overseas where costs are lower. It is that or go out of business.

Let us think what will happen during 2004 if the tariffs continue. It is very predictable, and it is this: Auto parts suppliers will move from Tennessee, from Wisconsin, from West Virginia, from Minnesota, from steel-consuming States, particularly auto parts suppliers. They will move to Mexico, to Korea, to Japan, and to Germany. There are many such countries capable of making quality auto parts where steel is at global market prices.

Since the United States tariffs do not apply to auto parts, only to the steel material, the auto parts suppliers will do only what they can do: Make the parts in Japan and ship them to the Nissan plant in Tennessee at a much lower cost than what they can make in Tennessee using United States steel.

This means small manufacturing plant after small manufacturing plant in small American town after small American town in State after State in 2004 will be closing their doors and shipping those good paying jobs with benefits to Korea, to Germany, to China, and to Japan. These same jobs that more than any other factor helped my State of Tennessee become prosperous will be gone, and I am afraid it will be hard to get them back.

Let me say just a word about steel-consuming jobs, like auto suppliers, versus steel-producing jobs, like steel plants. This tariff is a good-faith effort by the administration to save jobs in U.S. steel mills. There are more than 200,000 of these steel-producing jobs nationwide.

Here is the backfire. According to a study by Dr. Joseph Francois and Laura Baughman, almost 200,000 Americans in steel-consuming industries have lost their jobs in the last year since the imposition of the steel tariffs.

So when one considers the huge number of jobs in the steel-consuming sectors of American business, especially the auto industry, compared with a relatively small number of steel-producing jobs, I am afraid what happened last year is only a fraction of the job losses that will occur during 2004 and 2005.

Tennessee, for example, has only 3,396 steel-producing jobs, but Tennessee has 100 times that many steel-consuming jobs, 328,000, and 95,000 of those jobs are those auto-related jobs, those \$30,000 to \$50,000 jobs with good benefits that are in the small towns of Tennessee.

This is not just a Tennessee story, Mr. President. The United States has

12.8 million steel-consuming jobs, 2.1 million of which are auto related. The United States has only 226,000 steel-producing jobs.

I have selected at random a dozen other States and compared the number of steel-consuming jobs versus the number of steel-producing jobs. I will run through just a few of them.

Ohio has 770,000 steel-consuming jobs. Those are the auto parts suppliers. Ohio has over 38,000 steel-producing jobs; Florida, over 470,000 steel-consuming jobs. Florida has only a little over 1,500 steel-producing jobs. Even Pennsylvania, 72,300 jobs are auto related; 553,315 jobs are steel consuming like the autoparts suppliers. Only 35,730 are steel-producing jobs. Michigan, nearly 800,000 are steel consuming, 11,744 steel producing. West Virginia, 8,800 are auto related, 57,932 steel consuming, only 6,718 steel producing. Same in New Mexico. Same in Iowa.

Here is an interesting one. Minnesota has 248,047 steel-consuming jobs; 36,550 of those are autoparts suppliers. Minnesota has only 1,087 steel-producing jobs. The same in Wisconsin, Washington, Oregon, and in many other States.

In conclusion, let me say a word and give two or three specific examples of how the steel tariff has affected my State, Tennessee, during the last year. Tennessee ranks fourth in production of cars and trucks in the United States. It has nearly 100,000 employees in the automobile industry. It is the seventh largest State employed by the auto industry and a growing number of indirect and direct jobs in this sector.

According to the Motor Equipment Manufacturers Association, more than 70 percent of the employment of the auto industry comes from auto-parts suppliers. One example of how a steel-consuming company has been affected by the tariffs is Arvin Meritor. Arvin Meritor is a leading automotive supplier. It sells to the passenger car and commercial truck and trailer markets, as well as their related aftermarkets.

Arvin Meritor currently has six facilities in Tennessee in Loudon, Morristown, two in Pulaski, one in Brentwood, and one in Columbia. It employs 1,500 people. In 2002, Arvin Meritor purchased more than 1 million tons of steel globally. More than 95 percent of that steel consumed by Arvin Meritor in the United States during 2002 came from North American steel mills. Now, Arvin Meritor has faced a number of critical challenges since the inception of the tariffs.

In terms of pricing, Administration officials advised the company only to expect a 4 to 6 percent increase in the cost of steel in the United States after the tariffs, but their experience was far worse. They found that cold-rolled steel prices from one of the company's U.S. steel suppliers rose by as much as 25 percent after April 1, 2002, just a few weeks after the steel tariffs were imposed, as compared to before the imposition of the tariffs. The current price is 13 percent higher.

Galvanized steel prices from one of Arvin Meritor's U.S. steel sources increased as much as 40 percent after April 1 of last year as compared to before the imposition of the tariffs, and the current price is 28 percent higher.

Once, Arvin Meritor had seven facilities in my State, but earlier this year, Arvin Meritor announced the closing of its 317-employee Gordonsville, TN, facility which produces doors, seats, and sunroofs. These are the \$30,000, \$40,000, and \$50,000-a-year good jobs with benefits gone from Gordonsville, TN. This closure and the related reduction of Arvin Meritor's employment levels at its Pulaski, TN, facility, which produces aftermarket parts, they have cut down by 100 jobs. Both those incidents were due to the increased cost of the company's business units attributed in large part to steel tariffs.

A second example, the Dana Corporation, is one of the world's largest suppliers of axles, driveshafts, frames, brakes, chassis, et cetera. The company employs approximately 60,000 people worldwide. On April 1, 2002, Dana employed 3,000 people in facilities in Tennessee. Dana is one of the largest single purchasers of domestic steel in the U.S. with more than 95 percent of its total steel requirements purchased from U.S. steel producers.

Due to its product line, steel is Dana's largest single cost. As in the case of many auto suppliers in Tennessee and across this country, steel represents a large part of the overall production costs of automotive components. So after March 2002, Dana experienced steep price increases on domestic steel ranging from 20 to 50 percent. Coupled with delivery delays and supply restriction, in other words, shortages, the tariffs have forced Dana to begin seriously evaluating a number of steps to limit its exposure to problems arising from steel tariffs.

Among these steps is the use of offshore facilities to produce intermediate and finished products, as well as the active procurement of steel from exempt countries such as Mexico and Canada.

Now, if the goal is to save American jobs, how does it help to cause Dana, a large auto supplier, to move its facilities offshore—those are not Tennessee jobs—and to buy steel overseas? Those are not Tennessee steel producers.

A last example, Dura Automotive Systems, has five facilities in Tennessee, Gordonsville, Greenbrier, Lawrenceburg, Milan, and Pikeville. Dura employs 1,765 individuals in my State. It is the world's largest independent designer and manufacturer of driver control systems and a leading supplier of seating control systems, engineered assemblies, and structural door modules.

Dura is a leading supplier of door and window systems. Dura is an American company that used to purchase 100 percent of its steel from U.S. steel sources, once again, a prominent supporter of this Nation's domestic steel

industry. Dura experienced a loss of \$10 million in 2002 due to the higher steel prices, mainly for hot- and cold-rolled stripped steel, and was forced to increase its steel purchases from the spot market which is even more costly.

In addition, Dura's lead time for deliveries of steel from domestic sources, sources in this country, increased from 10 or 12 weeks to 18 or 20 weeks, adversely affecting just in time the manufacturing process and imposing significant additional costs on Dura.

American automobile companies and companies from all over the world that make automobiles in this country do not want delays in their autoparts. They want them the same day they order them, and if the tariff produces delays, that is just as costly as tariff price increases. Overall, the prices for Dura's required steel have increased by an average of 30 percent since March of last year. The result, Dura is currently considering a number of strategic alternatives such as moving production overseas and sourcing its steel from offshore sources.

That is very bad news to Tennesseans in Gordonsville, Greenbrier, Lawrenceburg, Milan, and Pikeville; 1,765 families who have these good jobs.

Our President, George Bush, is working hard to improve this economy. I am his strong supporter. I believe he is on the right track. I believe his jobs growth plan is working. I want him to succeed. I believe the economy is beginning to recover, and the last thing we need is any new cost on a major segment of American manufacturers that slows this economy's growth down.

I fear if the steel tariffs stay on as scheduled that we will see wave after wave of plant closings in the automobile industry across this State, in Tennessee, Ohio, Florida, Michigan, Pennsylvania, West Virginia, New Mexico, Illinois, Iowa, Wisconsin, Minnesota, Washington, and we do not want to see that. So I respectfully hope as the President comes to September and sees this opportunity, he will say: I did my best. I made a good-faith effort to help save those steel-producing jobs. It has not worked. It has backfired. It is the wrong policy, and the best thing I can do for the American worker is to end the steel tariffs.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. ALEXANDER. On behalf of the majority leader, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HONORING OUR ARMED FORCES

Mr. BAUCUS. Mr. President, Montana has been proud to send many of our young men and women over to serve in the Gulf these past few months. As their stories come back to us, we see more clearly the personal side of this war. We see the bravery, the commitment, and the courage of these men and women. Our Armed Forces remain engaged in a complicated, difficult effort, and they continue to carry out their mission with the type of professionalism and compassion that you could expect only from the most dedicated and finely trained individuals.

As I have done before, I would like to take the time this morning to acknowledge a few of the many Montanans we have serving in the Gulf region. It is important that we let them know just how proud of them we are.

I have recently received news that Marine Cpl Chad M. Taylor, of Kalispell, MT, has been awarded the Purple Heart. Chad was wounded last month while serving somewhere between the Iraqi cities of Baghdad and Tikrit. He was riding in an amphibious personnel carrier when it was hit by two rocket-propelled grenades. He has sustained shrapnel wounds in his legs, and he told his folks it would probably take "a couple of surgeries" to put him right.

Chad has not been the only member of his family serving over in the Gulf—his twin brother Bobby is also a marine. The brothers joined up the same day, almost 4 years ago now. Before Chad's injury, both of them were stationed for a time in Baghdad, camping in separate Saddam palaces a few blocks apart. We hear they have seen each other fairly regularly, and once, passing in the streets of Baghdad, were able to exchange a high-five.

The boys' father says it is some relief to know that Chad is now safe, though wounded, but with Bobby still in the field, he remains "on pins and needles." We are all praying for Chad's quick recovery and Bobby's safe return. Hopefully, it will not be too long before this strong family can be back together again, celebrating the service and success of their wonderful boys.

LCpl Mike Tobey is also among those who have been wounded in Iraq. Mike's legs were broken in multiple places when a shell struck his troop carrier during the fighting in Baghdad. How's this for bravery and commitment? When interviewed by reporters he said, "I'd give anything to be back with the squad right now."

Mike's mother Julie lives in Whitefish, MT, and Mike's bravery has really brought the human side of this war into the lives of local residents. Mike has in fact become quite a local media sensation, indicating just how deeply support for our troops runs in Montana.

Maj Patricia Camel Kelly of Ronan, MT, is currently serving as a surgical nurse in the 86th Combat Area Hospital in Iraq. She is working at an Enemy

Prisoner of War camp, an experience she says will make her more confident as a family nurse practitioner when she returns to civilian life.

Major Kelly was previously a community health nurse with the Indian Health Service in St. Ignatius, and has a masters in community health nursing from Tulane University. She entered the Army in 1987, when her son Richard was a junior in high school, and while I am sure she is correct when she says she is still adding to her skills, it is hard for me to try to picture something this woman couldn't handle.

Major Kelly was one of the first tribal members to graduate from the Montana State University School of Nursing and is now one of many Native Americans serving overseas. She is of Pend Oreille descent and a member of the Confederated Salish and Kootenai Tribes. Her mother Alice Camel is a tribal elder.

After Major Kelly returns from Iraq, she plans to serve out the remainder of her time in the Army in Fort Lewis, WAF, and then move back home to the Flathead Indian Reservation. Her husband Isaac Kelly a retired Army master sergeant and her son Richard Janssen are among those eagerly awaiting her safe return.

Native Americans are probably serving in the highest percentage of any population in the country. Certainly there is strong evidence of this patriotic commitment to service in Montana. A good example is the Rocky Boy Tribe, which has 30 members on active military duty, despite a population of less than 3,000. Among those serving in the Gulf from Rocky Boy are two sisters, Crystal and Tashina Russette, both in the Navy, and Jason Torivio serving aboard the *U.S.S. Abraham Lincoln*.

Army CPL Angela Duran, mother of two small children and sister to a veteran of the first Gulf war, has now also been deployed. Her mother Linda will care for her two sons, ages 3 and 5, while she is away.

Ninety-one members of the Blackfeet Reservation are serving in the Armed Forces currently, with roughly 40 of them deployed for the Iraq war. Among those representing the Blackfeet Nation in the Gulf are PFC Carl Logan Kipp, part of the Army's Psychological Operations, and PFC Ivan Redhorn, recently deployed to the Gulf. Abe Birdrattler is serving in the Army's 3rd Division as a medic. Two of the Tucker boys, Brian, of the 101st Airborne, and his older brother Ronald, an Army specialist, and PFC Aretha Bullplume are also among those serving from the reservation.

These tribes have a strong history of community support for their members of the military, and they have been continuing that tradition with letters to their soldiers and care for their families. It feels good to know that when these troops come home, they will be receiving the kind of honor and respect

from their community that all our troops deserve.

PO3 Travis Woodward of Superior, MT, has been serving aboard the *U.S.S. Valley Forge* and lending his expertise to an Australian ship as part of a cooperative coalition effort. Prior to this conflict, he has been part of a boarding team searching for drugs aboard foreign ships and enforcing United States sanctions against Saddam Hussein's regime.

Travis's time in the Navy is coming to an end this June, when he will be able to return to his wife and son back home in Montana. It will be a pleasure to see him rejoin his family and the Superior community.

PFC Frank Valenti is serving near Baghdad in the Transportation Division of the Army's 3rd Cavalry Division. He seems to be posterboy of what the Army can do to transform the life of a young man. From the description his mother gives, it seems Frank wasn't up to much after high school, kind of a sleep late, party hard kind of guy, and then he decided to turn his life around.

Joining the Army has really allowed him to start making something of himself. He married his longtime sweetheart and is serving his country and accomplishing things he can be proud of for the rest of his life. It is night and day from a few years ago for him, and it shows you a little bit about what kind of an institution our military is and what it means to become part of something larger than yourself, what it means to serve your country as Frank is doing.

Frank's brother Nathan Valenti is an Army pharmacy specialist serving in Germany, and I know their mother is very proud of both her boys, as she has every right to be. We are proud of them too.

Army CPT David Michael Gercken is a veteran of Operations Desert Shield and Desert Storm of the first Iraq conflict and is now serving in Iraq again. He is the father of three children, with a fourth child due July 1, when David will still be in Iraq.

David was raised in Great Falls and went on to attend college and met his wife at the University of Montana in Missoula. David is a Montanan through and through, and just before his deployment he sent me this statement via his parents. I would like to share it with you:

Montanans have always shown a pioneering spirit and a dedication to democratic principles and the defense of freedom. As an Army officer I am very proud to take that same spirit with me when I deploy next week with the 1st Armored Division. GO GRIZ!!!!

A father, a veteran, and a proud, dedicated protector of this country and our values.

SSG Neil Bohne of Frenchtown, MT, joined the Air Force in 1998 and was deployed in Turkey in 1999 as part of Operation Northern Watch, which patrolled the no-fly zone in northern Iraq prior to this conflict, and later helped

set up the first ever Coalition Life Support Shop in the former Soviet Union. He is now deployed to the 379th Expeditionary Wing in Iraq. His letters home have been reprinted in the *Missoulian*, and he has developed quite a local following. We know the support of hometown folks is very important to him, as it is to all our troops out there putting their lives on the line so far from home. We want to make sure he knows how proud we are of the job he and the rest of our forces have done and are continuing to do as they work to secure the peace and protect the freedoms we hold so dear.

LT Paul Tripp of the U.S. Navy is another man with a large hometown following. Paul's grandfather, Clarence, moved to Missoula from Minnesota with all nine of his brothers and sisters in the 1940s. The Tripp family has been a large and wonderful part of the community ever since.

Lieutenant Tripp has been serving the war effort as a code-breaker stationed in Saudi Arabia. He holds two master's degrees, in human resources and business management, and is considering pursuing a doctoral degree after he retires from the service. It is no surprise that a man this committed to education would have a tendency to make insightful comments, and I still return to a few lines from e-mail that were printed in the *Missoulian*, I guess about a month ago now. I would like to share his words with you all because I feel he really is able to articulate that which so many of us feel:

As I travel and talk to people around this region, I want you to know how absolutely swelled up with gratitude and pride you should be to call yourselves Americans. There are men and women from every corner of our country serving you. There are women who have left their children, married couples who are at different bases serving at the same time, men who are single fathers that have left their children, and every variation in between.

People are sleeping on cots, showering in trailers and walking in the sand ¼ mile to go to the bathroom—all in the name of freedom. We have such adaptable unselfish willing citizens over here that at times I am speechless from humility.

Nickolas Kyle Neilan is currently serving aboard the *USS Alonzo*, a guided missile Aegis cruiser. Nickolas is a Big Fork and Missoula native who has remained in touch with his home even while nine time zones away, reading the *Missoulian* online and corresponding with folks back home via e-mail. His service has been filled with long stretches at sea without a chance to dock and escape the confines of the ship, but like so many other of our servicemen and women, he bears these hardships calmly, simply doing his job and doing it well. He is the kind of young person we Montanans are proud to call one of our own.

Another Montanan serving at sea, PO3 Benjamin Taylor, is home now. He and Jason Torivio from Rocky Boy, whom I mentioned earlier, and Joe Keller of Harlowton serve aboard the *USS*

*Abraham Lincoln*, part of a battle group that, until this past Friday, had been at sea longer than any other carrier group now on duty. They docked in San Diego briefly and are now on their way back to their homeport in Everett, WA. Joe Keller was able to debark in San Diego and fly home to Billings/Logan Airport, where he was met by his wife and two children and other family members.

Benjamin Taylor is a graduate of Sentinel High School and the University of Montana—he and his family have long been a strong part of the Missoula community, and I understand a large Missoula contingent was planning to make the trip to meet the ship dockside.

As the sailors aboard the *Lincoln* are arriving home, other Montanans are just arriving in Iraq, ready to pick up the task of security and rebuilding, now that the task of toppling Saddam's regime is done. Many of these newly deployed soldiers are members of the Army Reserves who have been called up to active duty for this conflict. The 495th Transportation Battalion from Kalispell, MT, just shipped out a couple weeks ago, and the 889th Transportation Battalion, also primarily of Kalispell, shipped out last week. The task before them is complex and difficult. It will test their training and their character, but we know they are up to the job. They have our confidence, and they are in our prayers.

Reservists are those who train on weekends a couple weeks a year, remaining ready for duty while still holding down civilian jobs and often raising families. When reservists are called up, they are asked to leave those jobs and families, to drop everything and heed the call to duty. Their employers are also asked to contribute, by granting flexibility to accommodate their training schedule, and of course to accommodate their sudden departure in time of conflict. The 125th Ordnance Battalion from Billings, MT, has contacted me with a short list of soldiers they feel are deserving of special recognition for serving in this special capacity. I hope hearing their stories gives you an idea of what kind of sacrifices so many of our reservists are gladly making in this conflict—the members of the 495th, and the 889th, and members from other companies around the State.

SGT Stacy F. Wright of Billings is enroute to Iraq to serve as a legal NCO. She has served as an active-duty member of the military before, but this time is leaving behind her husband, two children, a ranch, and a job as an administrative assistant in the Internal Revenue Service in order to serve her country.

SGT JJ Hutzenbeiler of Billings is now serving in Uzbekistan as a supply NCO, leaving behind his wife and job as a loan officer at 1st Interstate Bank.

SPEC Jesse C. Ryan is a student at Montana State University in Bozeman and was called up to serve in Iraq as a chemical Specialist.

SGT Jack E. Walker of Billings is enroute to Iraq as a motor sergeant. Jack has also served active duty before, but now must part with his wife, two children and small farm to do so.

SSGT Norman Richey, also experienced as an active-duty soldier, is enroute to New Mexico as a supply NCO. He leaves behind a job as a correctional officer for the New Mexico Department of Corrections.

SGT Chris Alamond is serving in Iraq as a communications NCO, having been called away from his wife and job as a mail handler for the U.S. Postal Service.

CAPT Nadine Elmore of Ekalaka left behind her husband and job with Montana State Human Resources to serve as a finance officer in Kuwait.

LTC Robert E. Brekke of Bozeman is now a provost marshal in Kuwait. When he is home, he serves as the owner/manager of Mountain Motor Supply.

LTC Teresa Otto is serving in Iraq and Kuwait as an anesthesiologist—the same job she has temporarily left at St. Vincent Hospital.

MSG Timothy Stavnes is serving in an undisclosed location as a special operations intelligence chief. Master Sergeant Stavnes has served as a traditional active duty soldier and been called up to active duty from the Reserves several times before. When he is in Billings, he is the assistant fire chief for the city, serving his community when not serving his country.

I would like to conclude my talk this morning by mentioning a Montanan serving overseas who is not a soldier, sailor, airman, or marine. Maggie Bigelow of Columbia Falls is serving in Germany as the financial manager of the enlisted club at Ramstein Airforce Base. She is also the saving grace of wounded Montanans like Chad Taylor and Mike Tobey, who have been flown to Ramstein for treatment. As one of those soldiers' mother's put it, she is an angel without wings. She has been keeping our boys in touch with their families, bringing them pizza, gifts, and most importantly, her smile and company. When one of our Montana servicemen is hurt and a long way from home, it is unbelievably reassuring to know she is there at his bedside, looking after him.

Maggie's father served as a marine in Vietnam, and her mother is a longtime member of the Veterans of Foreign Wars auxiliary. Her sister Brooke Brennan is serving in Kuwait as a staff sergeant in the Air Force. Maggie has grown up in a family dedicated to service, and the size of her heart is an inspiration to us all.

I hope hearing a little bit about these people helps folks understand the depth of commitment we have from our armed services—what they are willing to do in service of their country. It is not easy to drop everything and go out and serve when your country needs you, but these men and women do just that, whenever they are needed. I, for one, am incredibly grateful for that.

Mr. LEVIN. Mr. President, as our Nation's military continues its efforts to stabilize Iraq, we are reminded of the courage and valor that our soldiers, sailors, airmen and Marines embody each day as they carry out their duties. When I visited Iraq a few weeks ago, I experienced firsthand the difficult conditions under which they are performing their duties so capably.

Today, America is relying on the citizen-soldiers of the National Guard more than ever. In the past year, over thirteen hundred men and women from the Michigan National Guard have been mobilized to serve around the world. Among them were the men and women of the 110th Fighter Wing stationed at W.K. Kellogg Field in Battle Creek, Michigan. Since receiving A-10 aircraft in 1990, the men and women of the 110th Fighter Wing have literally been traversing the globe, seeing action in Bosnia, Kosovo, Operation Southern Watch in Iraq, and in Southwest Asia. It was while serving as part of Operation Allied Force in Kosovo that the 110th Fighter Wing teamed with sister A-10 units from the Massachusetts and Idaho Air National Guards to form the "killer bees."

Tomorrow, one of the members of the 110th Fighter Wing, Major James "Chocks" Ewald, will be visiting our Nation's capitol. Major Ewald embodies the commitment of the men and women in the National Guard. A pilot for United Airlines until he was furloughed following the September 11, 2001 terrorist attacks, Major Ewald is a retired Air Force pilot who leaves his wife and three young children in suburban Chicago one weekend a month to train with his National Guard unit in Battle Creek, Michigan.

Major Ewald piloted an A-10 Warthog that was shot down while providing combat air support to ground units approaching Baghdad during Operation Iraqi Freedom. It was truly a relief when we learned that even though Major Ewald had to abandon his aircraft, he was picked up in a matter of minutes by U.S. Army personnel who saw him hiding in the reeds along the banks of the Euphrates River.

As the Army unit approached, Major Ewald thought that Iraqi forces were nearing. However, when the soldiers called out to him, saying "Hey, pilot dude, we see you over there," he quickly concluded two things: first, his hiding place was not the best, and second, fortunately "dude" is probably not Saddam's Republican Guard calling for you.

This anecdote underscores the heroism of our Nation's military. A-10 pilots like Major Ewald put their lives on the line in support of our ground troops, and those troops in turn came to his aid when shot down. In an era when the term "hero" is used with increasing frequency, the actions of Major Ewald and his rescuers truly deserve the label of hero.

Our Nation owes a debt of gratitude to our men and women in uniform for

their professionalism, patriotism and willingness to ensure our Nation's security. I know colleagues join me in welcoming Major James Ewald, and thanking him for his service to our country.

#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Elkhart, IN. On November 17, 1999, Sasezley Richardson, a 19-year-old black teenager was shot dead as he strolled back from a local mall with diapers for a friend's baby. The two men that shot Richardson said they shot the young man solely because of his race. The victim was black and the perpetrators of the crime were white. One of the shaven-headed suspects told police he was a member of the violent, white supremacist Aryan Brotherhood, while the other reportedly said he wanted to kill a black person in order to get in the group.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### 2003 FEDERAL BUDGET DEFICIT

Mrs. FEINSTEIN. Mr. President, I rise to address this year's Federal budget deficit, which is now expected to exceed \$450 billion. This will be the largest Federal deficit on record.

This is a staggering \$680 billion increase from the \$236 billion budget surplus the Federal Government ran 3 years ago.

And who knows how much the true deficit may in fact be if, a few months from now, the projection increases again due to the ongoing costs of rebuilding Iraq and Afghanistan. Reconstruction costs are now running \$4.8 billion per month, or \$58 billion annually, which is well above what we have budgeted.

According to the Concord Coalition, a nonpartisan group that advocates for balanced budgets, "The first six months of the 108th Congress were the most fiscally irresponsible in recent memory."

The members of this Chamber and the American public should know the simple truth: putting our economy back on track is even more difficult in the face of deficits of this magnitude.

And next year, the on-budget deficit will likely top \$600 billion.

In my 10-year career in the Senate, there has never been a greater need for fiscal discipline than there is now. The then-record \$290 billion deficit we faced in 1992 required some very tough choices to be made but the choices that lie ahead will be even harder.

It is incumbent on the President and the House and Senate leadership to prepare the country for those choices. Instead, the President and the Republican leadership in Congress have cut taxes with abandon while increasing spending at a rate faster than at any point during the past 10 years.

Discretionary spending increased by 13.1 percent between 2002 and 2001, and is expected to increase by 9.7 percent this year over 2002 levels. Much of that spending has been necessary to fight the war on terror, recover from the attacks of September 11, and improve our homeland security.

Nevertheless, such spending cannot be sustained if tax revenues plummet due to ill-timed tax cuts and a weakened economy. In fact, the Federal Government has now reached a point at which it could eliminate all non-defense discretionary spending and still not close the Federal budget deficit.

That would mean eliminating all Federal spending on roads, schools, law enforcement, disease research, and the environment, among thousands of other programs.

This structural imbalance between Federal revenues and outlays threatens to send us into a spiral of increasing debt and rapidly accelerating interest costs. As the Federal debt increases and public saving decreases, long-term interest rates will inevitably be pushed higher.

That not only increases the amount that the Federal Government must pay to finance its obligations but also raises the cost of putting a mortgage on your home or financing a new car purchase. A conservative estimate puts the increase in long-term interest rates due to the budget deficit at 0.4 percent.

An increase of that magnitude would add \$800 per year to the cost of a \$200,000 home mortgage, or more than the majority of American taxpayers will receive from the President's latest tax cut.

Yet what is perhaps more threatening is the negative economic impact of these growing deficits.

The hard truth is that even robust economic growth will not bring the budget back into balance. When preparing deficit projections, the CBO assumes average real GDP growth of 3.3 percent between now and 2008, which is well in excess of the 1.5 to 2 percent average growth of the past 3 years.

Such moderately strong growth would still leave us with more than \$2 trillion in cumulative deficits over the next decade. And this does take into account the true cost of the tax cuts without the sunsets and other budgetary gimmicks, which is likely to add \$1.8 trillion to those deficits if all existing tax cuts were extended.

These fiscal problems are not intractable, but they require bipartisan cooperation and real fiscal discipline, both of which have been in short supply of late.

One unfortunate consequence of the administration's approach to the recent tax cut has been a growing partisan divide between Democrats and Republicans on fiscal policy.

That stands in sharp contrast to the atmosphere when I entered the Senate in 1992. At that time a group of moderate Senators from both parties joined forces to rein in spending and hold the line on new tax cuts.

Those efforts came to fruition in 1998, when the first Federal budget surplus since the Johnson administration was recorded. Budget surpluses continued for an additional 2 years, coinciding with a period of robust economic growth.

During the 108th Congress, I have worked to rekindle that spirit of bipartisanship because I fear for the consequences of maintaining our current course.

This past January, I introduced bipartisan legislation with Senator CHAFEE to freeze further cuts to the top income tax rates, a move which would save over \$150 billion over 10 years if enacted today.

During debate on the fiscal year 2004 budget resolution, I cosponsored an alternate budget resolution with Senators CARPER, CHAFEE, and LINCOLN. That alternate resolution would have brought the budget back into balance 4 years earlier than the resolution which passed the Senate, and was revenue-neutral over the 10-year budget window.

And yesterday I introduced legislation to upgrade our country's transportation and water infrastructure. Credit for this bill is due to Congressman OBERSTAR in the House, and I am pleased to introduce the Senate companion bill. This bill would create more than 2 million new jobs, at less than a tenth the cost of the latest tax cut.

Moreover, the \$34 billion cost of my bill is fully offset by closing Enron-related tax shelters, putting an end to corporate expatriation and extending customs user fees.

This type of targeted, revenue-neutral stimulus promises to create more jobs than the President's tax cut, without digging us deeper into debt, and is precisely the sort of fiscally responsible approach to jump-starting the economy that we need.

Just as the budget surpluses of the late 1990s had a positive ripple effect of increasing the feeling of economic certainty and security in this country, the current budget deficit is having a negative ripple effect and is contributing to the near-freeze on hiring and capital investment we are currently experiencing.

We must break this cycle with bipartisan leadership or we will face an even greater crisis in the years ahead. We cannot afford to burden future generations with the debt resulting from our



fiscal mismanagement, and we cannot afford to defer tough choices to future leaders.

#### CONGRESSIONAL REVIEW ACT AND THE FCC

Mr. FEINGOLD. Mr. President, I am proud to be an original cosponsor of S. J. Res. 17, the resolution of disapproval introduced yesterday by Senator DORGAN and a bipartisan group of Senators who are very concerned about the media ownership rules issued recently by the Federal Communications Commission. When the FCC issued those rules, it ignored the public. It ignored hundreds of thousands of public comments, and it ignored the calls of elected representatives for more careful consideration of these issues that are crucial to the future of information and entertainment in our country.

Over the past several weeks, many Senators have been doing what the FCC failed to do: listening to the American people. What we have heard is not applause for the new rules but great disappointment, and even anger. The American people are outraged by these new media ownership rules. They do not want new media ownership rules that legitimize eliminating local community voices in exchange for homogenization and uniformity. They do not want fewer and fewer choices, and less and less local control.

Those of us who support this disapproval resolution under the Congressional Review Act want to right the wrong done by the FCC. We believe that the people, not powerful media conglomerates, ultimately own the airwaves. The will of the people must be reflected in the rules that govern media ownership in this country. The strong public support for this resolution is demonstrated by the fact that there are already 35 Senators, from both sides of the aisle, who have signed a petition to bring this matter to the floor, as the CRA contemplates. It is now clear that we will have a vote on this matter in the Senate in the next few months. That is good news for the public.

The FCC's rules threaten to undermine the diversity of voices in the television and newspaper industries, just as diversity in the radio industry has been diminished. In a marketplace limited by only these new rules, our major media outlets will begin to look and act like radio, with absentee owners, standardized programming, and less local news and community involvement.

Thanks to the Telecommunications Act of 1996, which loosened the ownership rules for radio, we have seen the future of media consolidation, and we know that it offers a lot more to big media companies than it does to consumers. In some cases, it can be downright dangerous. The five giant media conglomerates that already dominate the airwaves will expand their reach and further stifle localism and diversity.

By invoking the Congressional Review Act, Congress can wipe out these new rules altogether, and the FCC will have to go back and redraft them. We plan to make it clear that the new draft should include some of the positive proposals contained in the recent media bill sponsored by Senator Ted Stevens that passed out of the Commerce Committee. The CRA specifically contemplated that agencies may have to redo regulations required by court or congressional mandate. If this disapproval resolution is passed by the House and the Senate, the preexisting rules will again be in effect until the FCC goes back to the drawing board and promulgates new regulations that are not substantially similar to the rules that Congress has disapproved.

In promulgating these new rules, the FCC ignored its primary responsibility—to serve the public interest. But fortunately, the FCC doesn't have the final word here. The people do. It is our duty in the Congress to listen to the people and give voice to their concerns. By passing the resolution of disapproval, we will do just that. I want to thank the Senator from North Dakota, Mr. DORGAN, for his leadership and the other Senators from both sides of the aisle who are working on this. This is an important effort and I believe we will be successful in taking this action on behalf of the public interest.

#### PESTICIDE HARMONIZATION

Mr. BURNS. Mr. President, I rise today to express my support of S. 1406, which is pesticide harmonization legislation. I join my colleague, Senator DORGAN, as an original cosponsor of this legislation. I would like to commend Senator DORGAN and his staff, the Montana Grain Growers, the National Association of Wheat Growers, and our Montana Department of Agriculture for their willingness to work out the gritty details of this bill. It has been a long and laborious negotiation process, but I believe we have come up with legislation that is better for the farmers of this country.

In my home State of Montana and many other Western and Midwestern States, we have faced a number of trade disputes between Canada and the United States. One of the most glaring discrepancies deals with pesticides. Chemicals that are sold for one price just across the border in Canada are sold at a considerably higher cost to American producers. Why does this happen you may ask? The EPA places strong regulations on chemicals used in the United States and therefore, the chemical companies believe they should hike up the prices to pay for their trouble.

The chemicals sold in Canada and the United States, in most cases, have the exact same chemical makeup. The same company manufactures them but often gives them a different name and nearly always prices the American

chemicals higher. The crops harvested at a lower production cost in Canada are now competing with American products. I am a strong believer in fair trade, but for free trade to actually occur, this problem must be addressed.

Currently, American farmers are facing a serious economic recession. Grain prices are the lowest they have been in a number of years and there does not appear to be a light at the end of the tunnel. Additionally, much of the West is looking at yet another year of drought. Also, fertilizer costs are skyrocketing with the ever-rising cost of natural gas. To top it all off, they are also being forced to pay twice as much for nearly the same chemicals as their foreign neighbors.

This bill would eliminate current obstacles and even the playing field for our farmers. The bill operates under a similar concept as the previous bills introduced, but many of the details have changed. The pesticide harmonization bill that is currently introduced, S. 332, had the States, not EPA, in charge of pesticide registrations. This new version has EPA in charge of the process. This eliminated some of the concerns of States, whose budgets would not allow these much-needed registrations to be completed. It also protects confidentiality of ingredients in the chemicals.

Our farmers and ranchers have been paying too much for their pesticides and chemicals for too long. From my years as a football referee, I learned everyone needs to follow the same rules to play the game. We need to make sure Canadian farmers and U.S. farmers are playing under the same rules. I believe this bill makes that happen. I look forward to working with my colleagues on this crucial issue to America's farmers and ranchers.

#### THANKING THE NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that my letter addressed to Mr. Ron Davis of the National Marine Engineers' Beneficial Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, July 16, 2003.

Mr. RON DAVIS, President  
National Marine Engineers' Beneficial Association,  
Washington, DC.

DEAR MR. DAVIS: I would like to extend my sincere thanks to the National Marine Engineers' Beneficial Association. Under your outstanding leadership, the National Marine Engineers' Beneficial Association strengthened the Army, Air Force, and Marine Corps combat power, and ensured our military's buildup in Southwest Asia.

The MEBA swiftly activated more than 40 vessels of the Ready Reserve Force. Our nation's military, and thus our national security, is dependent upon the quick response of each MEBA member. Your members more than met the challenge and exceeded all expectations.

Our nation depends on the courage and dedication of the MEBA to help ready our troops in times of crisis. I salute the heroic contributions of the National Marine Engineers' Beneficial Association and applaud every mariner for contributing to the support of our Nation's military.

Sincerely,

RICK SANTORUM,  
U.S. Senator.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING GILES H. MILLER, JR.

• Mr. ALLEN. Mr. President, I am very pleased today to recognize Mr. Giles H. Miller, Jr. of Culpeper, VA. Throughout his celebrated 100 years, he has been a model of altruistic service to his community, the Commonwealth of Virginia and America.

A Virginia native, Mr. Miller was born in Lynchburg on July 26, 1903. He attended college at the Virginia Military Institute from August 1920 to June 1924, and while enrolled, Mr. Miller was awarded some of the highest accolades the school has for students. As an alumnus, he has served VMI tirelessly in roles including President of its Board of Visitors, founder of the Miller Basketball Scholarship Program, and Chairman of the VMI Flying Squadron, just to name a few. His service has won him the school's Spirit Award, Distinguished Service Award, as well as the position of Senior Living Alumnus and the distinction of "Mr. VMI."

Mr. Miller's record of exemplary service extends also to the community of Culpeper, VA, where he has been a resident for more than 70 years and has deservedly earned the distinguished title of "Mr. Culpeper." Over those years, he has been a member of the Culpeper Town Council, Vice Mayor of Culpeper, founder and President of the Culpeper Host Lion's Club, Chairman of the Board of Culpeper Memorial Hospital and President of Culpeper National Bank. In recognition of his work, he has been honored as Outstanding Citizen of the Year in Culpeper, as well as with the Culpeper Colonel Award from the Board of Supervisors and the Good Scout Award from the Boy Scouts of America. In addition to his work in Culpeper, Mr. Miller has worked in significant positions throughout the Commonwealth, including a stint as Director of the Federal Reserve Bank in Richmond.

Mr. Miller is an example of many of the traits that we as Americans honor: service, dedication, and hard work, among others. He is a wonderful role model for his fellow Virginians and Americans, and I congratulate him on the wonderful celebration of his 100th birthday.●

##### TRIBUTE TO CHARLES L. SHEARER

• Mr. BUNNING. Mr. President, I pay tribute to one of Kentucky's finest edu-

cators. Dr. Charles L. Shearer has served as president of Transylvania University for over 20 years and he has helped shape it into the fine liberal arts institution it is today.

Upon Dr. Shearer's inception as Transylvania University's president 20 years ago, he brought with him a doctorate in economics and teaching experience. Charles also spent 4 years as the university's vice president of finance where he successfully eliminated Transylvania's deficits. Although campus enrollment was low then, Dr. Shearer helped Transylvania rebound from 605 in 1983 to a record 1,109 during the fall of 2002.

Achieving the highest quality of education in the classroom possible has been a top priority throughout Dr. Shearer's tenure as president. The top 25 students in each class are awarded the William T. Young Scholarship. The Bingham, Jones and Kenan programs encourage retainment and recruitment of faculty by awarding bonuses to deserving teachers.

Dr. Shearer's leadership helped raise the endowment from \$4.1 million in 1983 to \$110 million today. While funds peaked at \$129.3 million in 1998, the school has been able to make the necessary improvements and growth that have shaped Transylvania University. In the past 20 years the additions to the campus have included the Young Campus Center, the Rosenthal and Poole residence halls, the Cowgill business center, the Lucille Little Theatre, the Clive Beck Athletic and Recreation Center, the John R. Hall Field for intramurals and athletics, and the Marquard baseball field.

The commitment and devotion Dr. Charles Shearer has demonstrated to Transylvania University is inspiring. Fewer than 5 percent of college or university presidents serve 20 years or more. His ability to work and grow with people has enabled Dr. Shearer to serve Transylvania University in a spectacular way. While Dr. Shearer has received numerous offers to serve at other academic institutions, he has declined in order to continue his role at Transylvania and thus has become the longest serving president in the school's 223-year history. I am thrilled Dr. Shearer has remained at Transylvania and am optimistic for the university's future. I thank the Senate for allowing me to recognize Dr. Shearer and Transylvania University. He is one of Kentucky's best at one of its finest institutions.●

##### RECOGNIZING STEPHEN ARTHUR HEAVENER

• Mr. ALLEN. Mr. President, today I recognize Mr. Stephen Arthur Heavener who will retire on August 1, 2003, after having served 8½ years as the Executive Director of the Front Royal-Warren County Economic Development Authority. He leaves this position to become Executive Director of the Department of Development in Carlsbad, NM.

During Mr. Heavener's 8½ years of service at the Warren County EDA more than 1,100 county jobs were created and the local industrial tax base increased from 8.5 percent in 1990 to 13.5 percent in 2002. These particular accomplishments came to fruition largely because of Mr. Heavener's work with Pen-Tab Industries, Toray Plastics, America, Family Dollar, Ferguson Enterprises and SYSCO Northeast Cooperative, Inc. Mr. Heavener also assisted in the redevelopment of the Avtex Fibers Superfund site in Front Royal. The massive construction on this 500-acre site will eventually create more than 11,000 square feet of premium rehabilitated office space, 240 acres of Conservancy Parklands, 160 acres of eco-business park, and 30 acres of soccer fields. In addition, Mr. Heavener has also aided in the growth and expansion of local businesses in Warren County by creating the Rural Business Enterprise Loan program, which has provided loans for small businesses in the amount of \$250,000.

Mr. Heavener's record of success as Executive Director of the Front Royal-Warren County Economic Development Authority is well-known and respected. I congratulate him on his years of dedicated service to the people of Warren County and the Commonwealth of Virginia and wish him well in his new position in the Department of Development in Carlsbad.●

##### THE BOSTON CELTICS—HEROES AMONG US

• Mr. KENNEDY. Mr. President, the Boston Celtics are heroes on the basketball court and off the court as well. In 1997, they established the "Heroes Among Us" award to honor outstanding individuals in New England who have made an especially significant impact on the lives of others. The award is designed to honor men and women in Massachusetts who stand tall in their commitment to their community. The extraordinary achievements of the honorees include saving lives, sacrificing for others, overcoming obstacles to achieve goals, or lifelong commitments to improving the lives of those around them. They include persons of all ages and from all walks of life, including students, community leaders, founders of nonprofit organizations, members of the clergy, and many others.

At each home game during the season, the Celtics and their fans salute the exemplary efforts of an honoree in a special presentation on the basketball court. So far, over 250 individuals have received the "Heroes Among Us" award.

All of us in Massachusetts are very proud of this program, which has become one of the most recognized and respected initiatives in our State. I ask unanimous consent to include in the RECORD the names of the honorees for the 2002-2003 season.

Dina Barbosa, Cambridge, MA; Ethan Zohn, Lexington, MA; Lisa Scherber,

Reading, MA; David Gordenstein, Needham, MA; Jonathan Adams, Littleton, MA; Jerry Smith, Hyannis, MA; David Gonthier, Amesbury, MA; Joe Lester, Tewksbury, MA; Robert Coard, West Roxbury, MA; Frank Chin, Boston, MA; Josh Powell, Dorchester, MA; Amy Maki, North End, MA.

Linda Whitlock, Newton, MA; Stephen Clay, Springfield, MA; Crew of the USS *Constitution*, Charlestown, MA; Rebecca Chernin, Sharon, MA; Bill Murphy, Centerville, MA; David Crandell, Needham, MA; Moe Boisvert, Shrewsbury, MA; Paul Manley, Nashua, MA; Technical Sergeant Cynthia Chagnon, Concord, MA; Captain Thomas Hudner, Concord, MA; Jason and Sharon Silber, Peabody, MA; Staff Sergeant David Johnson, Amesbury, MA.

Maureen Dunn, Randolph, MA; Darryl Williams, Milton, MA; Lieutenant Commander Bill Timmons, Buzard's Bay, MA; Lou Bianchi, Natick, MA; Stephen and Ann Connally, Cheshire, MA; Justin Pasquariello, Arlington, MA; Tom Kelley, South Boston, MA; Pam Singer, Dunbarton, NH; John and Magi Bish, West Warren, MA; Travers DeGroot, East Greenwich, RI; Gerald Chertavian, Boston, MA; Jeffrey Ryan, Watertown, MA.

Bill McAndrews, Medfield, MA; Patrick Doyle, Dorchester, MA; Macy DeLong, Lexington, MA; Hope Wilson, East Bridgewater, MA; Terry Lenczycki, East Bridgewater, MA; Lee Kennedy, Norwood, MA; Jane Sapp, Springfield, MA; Tony and Virginia Brenna, Milford, MA; Crew of the USS *Preble*, United States Navy; Gary Twombly, Hull, MA; Zachary Jewett, North Attleboro, MA.●

#### HONORING ARTHUR BROWN OF HECLA MINING

● Mr. CRAPO. Mr. President, I rise today to recognize Arthur Brown, who has been a long-time resident of Idaho and a great contributor to our State and its economy.

Art Brown came to Idaho from South Africa 36 years ago to begin a new career in the mountains of Idaho's Silver Valley. Art, his wife Tiia, and their children began a journey that would support not only them but a company and our community.

As an engineer down in the mines, Art pursued the American Dream. After years of hard work and commitment, he rose to become the chairman and chief executive officer of Hecla Mining Company, which was the top performer on the New York Stock Exchange in 1979 and again in 2002.

Throughout his journey, Art never lost sight of his family and community. He served his local community as the mayor of Pinehurst. He led youth golf and ski programs. Art even gained a reputation as a head cheerleader of sorts, running the sidelines at his daughter's basketball games. Most notable is the culture of community service he fostered at Hecla, first by his example and then by encouragement to

his employees to do the same thing. Giving back to the community became a way of life for a Hecla employee under Art's direction.

Hecla Mining has been a part of the fabric of Idaho for over 112 years. And so have people like Art Brown, who contribute to their community, their State, and so much more. This year Art will be retiring from his service at the helm of Hecla. However, he will not be retiring away from Idaho. True to form, Art will remain rooted in his community and family of Idaho.

I am proud of Art Brown, for the example he has set for business in the State of Idaho, for his contributions to his community, and for his family who has supported him in his endeavors over the years. On behalf of myself and so many others in the great State of Idaho, I wish him the best in his future endeavors and thank him for his service to Idaho.●

#### MESSAGES FROM THE HOUSE

At 10:38 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2195. An act to provide for additional space and resources for national collections held by the Smithsonian Institution, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 236. A concurrent resolution permitting the use of the Rotunda of the Capitol for a ceremony to commemorate the unveiling of the statute of Sakakawea provided by the State of North Dakota for display in Statuary Hall.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House:

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. YOUNG of Alaska, Mr. MICA, Mr. EHLERS, Mr. HAYES, Mr. REHBERG, Mr. ISAKSON, Mr. OBERSTAR, Mr. DEFAZIO, Mr. BOSWELL, and Mr. HOLDEN.

From the Committee on Energy and Commerce, for consideration of section 521 of the House bill and section 508 of the Senate amendment, and modifications committed to conference: Mr. TAUZIN, Mr. BARTON of Texas, and Mr. DINGELL.

From the Committee on Government Reform, for consideration of sections 404 and 438 of the House bill and section

108 of the Senate amendment, and modifications committed to conference: Mr. Tom DAVIS of Virginia, Mr. SHAYS, and Mr. WAXMAN.

From the Committee on the Judiciary, for consideration of sections 106, 301, 405, 505, and 507 of the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. COBLE, and Mr. WAXMAN.

From the Committee on Resources, for consideration of sections 204 and 409 of the House bill and section 201 of the Senate amendment, and modifications committed to conference: Mr. POMBO, Mr. GIBBONS, and Mr. RAHALL: That Mr. RENZI is appointed in lieu of Mr. POMBO for consideration of section 409 of the House bill, and modifications committed to conference.

From the Committee on Science, for consideration of section 102 of the House bill and sections 102, 104, 621, 622, 641, 642, 661, 662, 663, 667, and 669 of the Senate amendment, and modifications committed to conference: Mr. BOEHLERT, Mr. ROHRBACHER, and Mr. COSTELLO.

From the Committee on Ways and Means, for consideration to title VI of the House bill and title VII of the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. CAMP, and Mr. RANGEL.

#### ENROLLED BILL SIGNED

Under the authority of the order of January 7, 2003, the following enrolled bill, previously signed by the Speaker of the House, was signed on July 15, 2003, by the President pro tempore (Mr. STEVENS).

S. 709. An act to award a congressional gold medal to Prime Minister Tony Blair.

At 5:14 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 246. An act to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso in the State of New Mexico.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 733) to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, and to administer the site as a unit of the National Park System, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the

managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. HUNTER, WELDON of Pennsylvania, HEFLEY, SAXTON, MCHUGH, EVERETT, BARTLETT of Maryland, MCKEON, THORNBERRY, HOSTETTLER, JONES of North Carolina, RYUN of Kansas, GIBBONS, HAYES, Mrs. WILSON of New Mexico, Messrs. CALVERT, SKELTON, SPRATT, ORTIZ, EVANS, TAYLOR of Mississippi, ABERCROMBIE, MEEHAN, REYES, SNYDER, TURNER of Texas, Ms. LORETTA SANCHEZ of California, and Mr. COOPER.

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X: Messrs. GOSS, HOEKSTRA, and Ms. HARMAN.

From the Committee on Agriculture, for consideration of sections 1057 and 2822 of the House bill, and modifications committed to conference: Messrs. GOODLATTE, LUCAS of Oklahoma, and STENHOLM.

From the Committee on Education and the Workforce, for consideration of sections 544, 553, 563, 567, 907, 1046, 1501, 1502, and 1504-1506 of the House bill, and sections 233, 351, 352, 368, 701, 1034, and 1036 of the Senate amendment, and modifications committed to conference: Messrs. CASTLE, KLINE, and GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of sections 601, 3113, 3201, and 3517 of the House bill, and sections 601, 701, 852, 3151, and 3201 of the Senate amendment, and modifications committed to conference: Messrs. TAUZIN, BARTON of Texas, and DINGELL.

From the Committee on Financial Services, for consideration of sections 814 and 907 of the House bill, and modifications committed to conference: Messrs. OXLEY, KING of New York, and Mrs. MALONEY.

From the Committee on Governmental Reform, for consideration of sections 315, 323, 551, 805, 822, 824, 828, 829, 1031, 1046, 1050, 1057, title XI, title XIV, sections 2825 and 2826 of the House bill, and sections 326, 801, 811, 813, 822, 831-833, 841, 852, 853, 1013, 1035, 1102-1104, and 2824-2826 of the Senate amendment, and modifications committed to conference: Messrs. TOM DAVIS of Virginia, SHAYS, Mrs. JO ANN DAVIS of Virginia, Messrs. PUTNAM, TURNER of Ohio, WAXMAN, VAN HOLLEN, and DAVIS of Illinois.

From the Select Committee on Homeland Security, for consideration of section 1456 of the House bill, and modifications committed to conference: Messrs. COX, SHADEGG, and THOMPSON of Mississippi.

From the Committee on House Administration, for consideration of section 564 of the Senate amendment, and modifications committed to conference: Messrs. NEY, MICA, and LARSON of Connecticut.

From the Committee on International Relations, for consideration of sections 1047, 1201, 1202, 1209, title XIII, sections 3601, 3611, 3631, 3632, 3634, and 3636 of the House bill, and sections 323, 343, 921, 1201, 1202, 1204, 1205, 1207, 1208, title XIII, and section 3141 of the Senate amendment, amid modifications committed to conference: Messrs. HYDE, BEREUTER, and LANTOS.

From the Committee on the Judiciary, for consideration of sections 661-665 and 851-853 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

From the Committee on Resources, for consideration of sections 311, 317-319, 601, and 1057 of the House bill, and sections 322, 330, and 601 of the Senate amendment, and modifications committed to conference: Messrs. POMBO, GILCHREST, REHBERG, RAHALL, and UDALL of New Mexico.

From the Committee on Science, for consideration of sections 852 and 911 of the Senate amendment, and modifications committed to conference: Messrs. BOEHLERT, SMITH of Michigan, and HALL of Texas.

From the Committee on Small Business, for consideration of section 866 of the Senate amendment, and modifications committed to conference: Mr. MANZULLO, Mrs. KELLY, and Ms. VELÁZQUEZ.

From the Committee on Transportation and Infrastructure, for consideration of sections 312, 601, 907, 1049, 1051, and 2824 of the House bill, and sections 324, 601, and 2821 of the Senate amendment, and modifications committed to conference: Messrs. YOUNG of Alaska, PETRI, and CARSON of Oklahoma.

From the Committee on Veterans' Affairs, for consideration of section 565 of the House bill, and sections 644 and 707 of the Senate amendment, and modifications committed to conference: Messrs. SMITH of New Jersey, BILIRAKIS, and FILNER.

From the Committee on Ways and Means, for consideration of section 701 of the Senate amendment, and modifications committed to conference: Messrs. THOMAS, McCRERY, and STARK.

#### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 16, 2003, she had presented to the President of the United States the following enrolled bill:

S. 709. An act to award a congressional gold medal to Prime Minister Tony Blair.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3234. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Mid-Session Review for

the Fiscal Year 2004; referred jointly pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986; to the Committees on Appropriations; and the Budget.

EC-3235. A communication from the Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Standards; Forest Fire Suppression and Fuels Management Services" (RIN3425-AE89) received on July 15, 2003; to the Committee on Small Business and Entrepreneurship.

EC-3236. A communication from the Principal Deputy Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, the Interim Report to Congress on Corrosion Matters in the Department of Defense; to the Committee on Armed Services.

EC-3237. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the Annual Report of the Reserves Forces Policy Board for Fiscal Year 2002; to the Committee on Armed Services.

EC-3238. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 99-09C; to the Committee on Armed Services.

EC-3239. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 01-08; to the Committee on Armed Services.

EC-3240. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Organization; Loan Policies and Operations; Termination of Farm Credit Status" (RIN3052-AB86) received July 15, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3241. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Aspergillus flavus AF36; Exemption from the Requirement of a Tolerance" (FRL#7311-6) received on July 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3242. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Pesticide Tolerances Technician Correction" (FRL#7317-1) received on July 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3243. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cymoxanil; Pesticide Tolerances" (FRL#7313-6) received on July 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3244. A communication from the Chairman, Board of Governors, Federal Reserve System, transmitting, pursuant to law, the Board's semiannual Monetary Policy Report to Congress; to the Committee on Banking, Housing, and Urban Affairs.

EC-3245. A communication from the Director, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the National Marine Fisheries Service Strategic Plan for Fisheries Research; to the Committee on Commerce, Science, and Transportation.

EC-3246. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Garmin International

Inc." (WT doc. no. 01-339; FCC03-26) received on July 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3247. A communication from the Assistant Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability" (FCC03-126, CC99-200) received on July 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3248. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 1.937 of the Commission's Rules Concerning Repetitious or Conflicting Applications" (WT doc. no. 02-57; FCC03-79) received on July 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3249. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure; Prohibiting Directed Fishing for Species that Comprise Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska" (RIN0679) received on July 15, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3250. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone off Alaska; Revisions to Observer Coverage Requirements for Vessels and Shore-side Processors in the North Pacific Groundfish Fisheries; Correction" (RIN0648-AM44) received on July 15, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3251. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "Federal Railroad Safety Improvement Act"; to the Committee on Commerce, Science, and Transportation.

EC-3252. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operations Regulations; Brooks Memorial (S.E. 17th Street) Bridge, Atlantic Intracoastal Waterway mile 1065.9, Fort Lauderdale, Florida" (RIN1625-AA09) received on July 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3253. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Regatta and Marine Parade Regulation; SLR (Including 2 Regulations)" (RIN1625-AA08) received on July 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3254. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations" (RIN1625-AA00) received on July 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3255. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (Including 2 Regulations) [San Diego]" (RIN1625-AA00) received on July 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3256. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/

Security Zone Regulations: Fireworks Display, Columbia River, Astoria, OR" (RIN1625-AA00) received on July 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3257. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes Within Or Contiguous to Waterfront Facilities" (RIN1625-AA07) received on July 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3258. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety Security Zone Regulations [San Francisco Bay]" (RIN1625-AA00) received on July 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3259. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (Including 7 Regulations)" (RIN1625-AA00) received on July 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3260. A communication from the Director, Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of a nomination confirmed for the position of Director, Bureau of Land Management, received on July 15, 2003; to the Committee on Energy and Natural Resources.

EC-3261. A communication from the Assistant General Counsel for Regulatory Law, Office of Environmental Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Reimbursement for Costs of Remedial Action at Active Uranium and Thorium Processing Sites" (RIN1901-AA88) received on July 15, 2003; to the Committee on Energy and Natural Resources.

EC-3262. A communication from the Director, Office of Surface Mining, transmitting, pursuant to law, the report of a rule entitled "Kentucky Regulatory Program" (KY-242-FOR) received on July 11, 2003; to the Committee on Energy and Natural Resources.

EC-3263. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Kentucky Regulatory Program" (KY-236-FOR) received on July 11, 2003; to the Committee on Energy and Natural Resources.

EC-3264. A communication from the Assistant Secretary for Fish and Wildlife, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Subsistence Harvest in Alaska; Spring/Summer Subsistence Harvest Regulations for Migratory Birds in Alaska during the 2003 Subsistence Season" (RIN1018-AI84) received on July 11, 2003; to the Committee on Energy and Natural Resources.

EC-3265. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Maryland Regulatory Program" (MD-048-FOR) received on July 11, 2003; to the Committee on Energy and Natural Resources.

EC-3266. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills"

(FRL#7528-3) received on July 11, 2003; to the Committee on Environment and Public Works.

EC-3267. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Allowance System for Controlling HCFC Production, Import and Export" (FRL#7528-4) received on July 11, 2003; to the Committee on Environment and Public Works.

EC-3268. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Fort Collins Carbon Monoxide Redesignation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions" (FRL#7522-1) received on July 11, 2003; to the Committee on Environment and Public Works.

EC-3269. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation of Plans; Indiana" (FRL#7517-5) received on July 11, 2003; to the Committee on Environment and Public Works.

EC-3270. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Georgia: Final Authorization of State Hazardous Waste Management Program Revision" (FRL#7530-9) received on July 11, 2003; to the Committee on Environment and Public Works.

EC-3271. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Guidelines Establishing Test Procedures for the Analysis of Pollutants: Analytical Methods for Biological Pollutants in Ambient Water" (FRL#7529-7) received on July 11, 2003; to the Committee on Environment and Public Works.

EC-3272. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination that State of California has Corrected Deficiencies and Stay and Deferral of Sanction; San Francisco Bay" (FRL#7528-9) received on July 11, 2003; to the Committee on Environment and Public Works.

EC-3273. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Phaseout of Chlorobromomethane Production and Consumption" (FRL#7529-4) received on July 11, 2003; to the Committee on Environment and Public Works.

EC-3274. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608 of the Clean Air Act" (FL#7530-4) received on July 11, 2003; to the Committee on Environment and Public Works.

EC-3275. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report entitled "Monthly Status Report on the Licensing Activities and Regulatory Duties of the United States Nuclear Regulatory Commission" for April 2003; to the Committee on Environment and Public Works.

EC-3276. A communication from the Chief, Regulations Unit, Internal Revenue Service,

transmitting, pursuant to law, the report of a rule entitled "Section 4971 and Running of Statute of Limitations and Form 5500 and Form 5330" (Rev. Rul. 2003-88) received on July 11, 2003; to the Committee on Finance.

EC-3277. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Announcement Explaining Changes to Automatic Approval Procedures for Changes in Annual Accounting Periods by Individuals" (Ann. no. 2003-49) received on July 11, 2003; to the Committee on Finance.

EC-3278. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Fees for Copies of Exempt Organization Returns" (RIN1545-BB22) received on July 11, 2003; to the Committee on Finance.

EC-3279. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Application of User Fees to EGTRRA Amendments" (Notice 2003-49) received on July 11, 2003; to the Committee on Finance.

EC-3280. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 1.856-4: Rents from Real Property" (Rev. Rul. 2003-86) received on July 11, 2003; to the Committee on Finance.

EC-3281. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "TD: Definition of Guaranteed Annuity and Unitrust Interests" (RIN1545-AO31) received on July 11, 2003; to the Committee on Finance.

EC-3282. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Automatic Approval Procedures for Changes in Annual Accounting Periods by Individuals" (Rev. Proc. 2003-62) received on July 11, 2003; to the Committee on Finance.

EC-3283. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Disclosure of Return Information by Certain Officers and Employees for Investigative Purposes" (RIN1545-BB17) received on July 11, 2003; to the Committee on Finance.

EC-3284. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Guidance on the Application of Section 911 to U.S. Individuals Working in Iraq" (Notice 2003-52) received on July 11, 2003; to the Committee on Finance.

EC-3285. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Statute of Limitations on Assessment as Affected by Bankruptcy" (Rev. Rul. 2003-80) received on July 11, 2003; to the Committee on Finance.

EC-3286. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Compensation Deferred Under Eligible Deferred Compensation Plans" (RIN1545-AX52) received on July 11, 2003; to the Committee on Finance.

EC-3287. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Application Procedures and Final Agreement for Withholding Foreign Partnerships and Trusts" (Rev. Proc. 2003-64) received on July 11, 2003; to the Committee on Finance.

EC-3288. A communication from the Chief, Regulations Unit, Internal Revenue Service,

transmitting, pursuant to law, the report of a rule entitled "TD: Catch-Up Contributions for Individuals Age 50 or Older" (RIN1545-BA24) received on July 11, 2003; to the Committee on Finance.

EC-3289. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 4980 and Reversion in Excess of 25% of Terminating Defined Benefit Plan's Assets" (Rev. Rul. 2003-85) received on July 11, 2003; to the Committee on Finance.

EC-3290. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Treatment of Community Income for Certain Individuals not Filing Joint Returns" (RIN1545-AY83) received on July 11, 2003; to the Committee on Finance.

EC-3291. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Failed 1035 Exchanges" (Notice 2003-51) received on July 11, 2003; to the Committee on Finance.

EC-3292. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Effect of Section 338(h)(10) Elections in Certain Multi-Step Transactions" (RIN1545-BB78) received on July 11, 2003; to the Committee on Finance.

EC-3293. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report relative to Cardiac rehabilitation programs and pulmonary rehabilitation services; to the Committee on Finance.

EC-3294. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, the Commission's March 2002 report entitled "Medicare Payment Policy"; to the Committee on Finance.

EC-3295. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, the Commission's January report entitled "Applying Quality Improvement Standards in Medicare"; to the Committee on Finance.

EC-3296. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, the Commission's recommendation of an index for adjusting payment amounts for physician training; to the Committee on Finance.

EC-3297. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15-107, "Additional Use of the Reserve Funds Omnibus Temporary Act of 2003"; to the Committee on Governmental Affairs.

EC-3298. A communication from the Director, National Science Foundation, transmitting, pursuant to law, the Foundation's Accountability Report for fiscal year 2002; to the Committee on Governmental Affairs.

EC-3299. A communication from the Director, Workforce Compensation and Perf. Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Administratively Uncontrollable Overtime" (RIN3206-) received on July 15, 2003; to the Committee on Governmental Affairs.

EC-3300. A communication from the Chairman, Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the Commission's report under the Government's Sunshine Act for calendar year 2001; to the Committee on Governmental Affairs.

EC-3301. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the General Accounting Office relative to the

National Energy Policy Development Group; to the Committee on Governmental Affairs.

EC-3302. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report relative to use of the Physicians' Comparability Allowance Program; to the Committee on Governmental Affairs.

EC-3303. A communication from the Chief Executive Officer, Washington Metropolitan Area Transit Authority, transmitting, pursuant to law, the Authority's annual financial report for the fiscal year ending June 30, 2001; to the Committee on Governmental Affairs.

EC-3304. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "New Drug, Antibiotic, and Biological Drug Product Regulations; Accelerated Approval; Technical Amendment" (Doc. no. 91N-0278) received on July 15, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-3305. A communication from the Director, National Science Foundation, transmitting, a report entitled "FY 2001 Management and Performance Highlights"; to the Committee on Health, Education, Labor, and Pensions.

EC-3306. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Assignment of Agency Component for Review of Premarket Applications" (Doc. no. 2003N-0235) received on July 15, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-3307. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Antiperspirant Drug Products For Over-the-Counter Human Use; Final Monograph" (RIN0910-AA01) received on July 15, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-3308. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Trans Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims" (RIN0910-AB66) received on July 15, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-3309. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on Evaluation, Research, and Technical Assistance Activities Supported by the Promoting Safe and Stable Families Program; to the Committee on Health, Education, Labor, and Pensions.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 877. A bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet (Rept. No. 108-102).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2004" (Rept. No. 108-103).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:



S. 929. A bill to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes (Rept. No. 108-104).

### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

\*Thomas W. O'Connell, of Virginia, to be an Assistant Secretary of Defense.

\*Paul Morgan Longworth, of Virginia, to be Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REID:

S. 1418. A bill to amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totaling \$5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefits computation rules enacted in the Social Security Amendments of 1977, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU (for herself, Mr. BAYH, Mr. KERRY, Mrs. CLINTON, and Mr. DASCHLE):

S. 1419. A bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care; to the Committee on Finance.

By Mr. CRAIG:

S. 1420. A bill to establish terms and conditions for use of certain Federal land by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such land; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI:

S. 1421. A bill to authorize the subdivision and dedication of restricted land owned by Alaska Natives; to the Committee on Energy and Natural Resources.

### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself, Mr. KENNEDY, Mr. VOINOVICH, Mrs. CLINTON, Ms. CANTWELL, Mr. BREAUX, Mrs. MURRAY, Mr. HOLLINGS, Mr. INOUE, Mr. LEVIN, Mr. BINGAMAN, Mr. ALLEN, Ms. MURKOWSKI, Ms. COLLINS, Mr. AKAKA, Mrs. HUTCHISON, and Mrs. LINCOLN):

S. Res. 196. A resolution designating December 14, 2003, as "National Children's Me-

morial Day"; to the Committee on the Judiciary.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 197. A resolution to authorize testimony, document production, and legal representation in *State of Colorado v. Carrie Ann Hoppes*, Andrew M. Bennett, Christopher J. Friedman, Andrew Jonathan Tirman, Carolyn Elizabeth Brinski, Melissa Noelle Rossman, Rachael Esther Kaplan; considered and agreed to.

### ADDITIONAL COSPONSORS

S. 59

At the request of Mr. INOUE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 333

At the request of Mr. BREAUX, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 517

At the request of Mrs. MURRAY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 517, a bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war.

S. 610

At the request of Mr. VOINOVICH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 610, a bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

S. 632

At the request of Mr. CRAIG, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 632, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the Medicare program for beneficiaries with cardiovascular disease.

S. 661

At the request of Mr. SCHUMER, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 661, a bill to amend the Internal Revenue Code of 1986 to equalize the

exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes.

S. 678

At the request of Mr. AKAKA, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 818

At the request of Mr. KERRY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 818, a bill to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

S. 844

At the request of Mr. CRAPO, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 844, a bill to subject the United States to imposition of fees and costs in proceedings relating to State water rights adjudications.

S. 893

At the request of Mr. SANTORUM, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 893, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 894

At the request of Mr. WARNER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 913

At the request of Mr. SANTORUM, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 913, a bill to amend the Federal Deposit Insurance Act to provide for the return of excess amounts in Federal deposit insurance funds to financial institutions for use in their communities, with such distributions allocated according to the historical basis of contributions made to the funds by such institutions.

S. 976

At the request of Mr. WARNER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1046

At the request of Mr. REID, his name was withdrawn as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism,



to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1046

At the request of Mr. STEVENS, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1046, *supra*.

S. 1250

At the request of Mr. BURNS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1250, a bill to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E-911 calls, and to support the construction and operation of a ubiquitous and reliable citizen activated system and other purposes.

S. 1283

At the request of Mr. GRAHAM of Florida, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1283, a bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, and for other purposes.

S. 1296

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1296, a bill to exempt seaplanes from certain transportation taxes.

S. 1331

At the request of Mr. SANTORUM, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1331, a bill to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers which file consolidated returns.

S. 1335

At the request of Mr. GRAHAM of Florida, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1400

At the request of Ms. COLLINS, her name was added as a cosponsor of S. 1400, a bill to develop a system that provides for ocean and coastal observations, to implement a research and development program to enhance security at United States ports, to implement a data and information system required by all components of an integrated ocean observing system and related research, and for other purposes.

S. CON. RES. 25

At the request of Mr. VOINOVICH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. Con. Res. 25, a concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes.

S. CON. RES. 40

At the request of Mrs. CLINTON, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from North Carolina (Mr. EDWARDS), the Senator from Rhode Island (Mr. REED), the Senator from Washington (Mrs. MURRAY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Ms. CANTWELL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. INOUE), the Senator from Maryland (Mr. SARBANES), the Senator from Georgia (Mr. MILLER), the Senator from Michigan (Mr. LEVIN), the Senator from Nebraska (Mr. NELSON) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. Con. Res. 40, a concurrent resolution designating August 7, 2003, as "National Purple Heart Recognition Day".

S. CON. RES. 41

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 41, a concurrent resolution directing Congress to enact legislation by October 2005 that provides access to comprehensive health care for all Americans.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 1418. A bill to amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totaling \$5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefits computation rules enacted in the Social Security Amendments of 1977, and for other purposes; to the Committee on Finance.

Mr. REID. Mr. President, I believe Social Security is one of the greatest success stories of our government.

Social Security is the only program in the history of our Nation that has

provided dignity and respect for our senior citizens, regardless of their income or backgrounds.

For almost 70 years, Social Security has been there for our citizens when they need it. It has provided seniors with independence and economic security in their retirement years.

In addition to helping millions of senior citizens, Social Security has provided economic security for surviving spouses and children and to countless Americans with disabilities.

It is easy to see why people believe Social Security is the most successful social program our country has ever adopted.

I rise today to reintroduce legislation that would correct a problem that plagues a special population of Social Security recipients. I am speaking on behalf of those affected by Social Security notch.

The Social Security notch causes more than nine million Social Security recipients born between the years of 1917 and 1926 to receive fewer Social Security benefits than Americans born outside the notch years due to changes made in 1977 to the Social Security benefit formula.

I have continued to speak out on this issue and the injustice it imposes on millions of seniors. The notch issue has been discussed, studied and reviewed, yet to date, Congress has not corrected this wrong. Because of this, many older Americans born during this period cannot afford the most basic necessities.

Congress must accept responsibility for any error that was made. We should not ask notch Seniors to accept less because of our mistake. While we must preserve and protect Social Security for future generations, we have an obligation to those, who through no fault of their own, receive less than those that were fortunate enough to be born just days before and after the notch period.

The notch situation has its origins in 1972, when Congress decided to create automatic cost-of-living-adjustments to help Social Security keep pace with inflation. Prior to 1972, each adjustment had to await legislation, causing beneficiaries' monthly payments to lag behind inflation. When Congress took this action, it was acting under the best of intentions.

Unfortunately, this new benefit adjustment method was flawed. To function properly, it required that the economy behave in much the same fashion that it had in the 1950s and 1960s, with annual wage increases outpacing prices, and inflation remaining relatively low. As we all know, that did not happen. The rapid inflation and high unemployment of the 1970s generated rapid increases in benefits.

In 1977, Congress revised the way that benefits were computed. In making its revisions, Congress decided that it was not proper to reduce benefits for persons already receiving them. It did, however, decide that benefits for all future retirees should be reduced.

We have an obligation to convey to our constituents that Social Security is a fair system. Notch Babies in Nevada feel slighted by their government and if I were in their situation, I would too. Through no fault of their own, they receive less, sometimes as much as \$200 less, than their neighbors.

The legislation I am offering today is my proposal to right the wrong. Let us fix the notch problem and restore the confidence of the nine million notch babies across this land. Government has an obligation to be fair. My support of notch babies is longstanding. I sponsored numerous pieces of legislation over the years to address this issue. With this legislation, my effort continues.

It is unfortunate that these measures have not seen the light of day. Many who have written to me think Congress is waiting for notch babies to die rather than honor this debt. I must tell you it concerns me when our constituents have this perception of their elected representatives.

We have to do something to make sure Americans believe that Social Security is a fair system. Passage of my legislation provides us that chance.

My legislation is intended to make good on what this government should have done long ago. I propose that workers who attain the age of 65 after 1981 and before 1992 be allowed to choose either lump sum payment over four years totaling \$5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977.

It is time to put these dollars into the hands of those who earned them. It is time to show our support for notch reform.

I am introducing this legislation because actions speak louder than words. The 'Notch Fairness Act of 2003' that I am introducing on behalf of notch victims today, is intended to put my words into action. I ask all my colleagues to join me in support of this important and long overdue legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1418

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Notch Fairness Act of 2003".

#### SEC. 2. NEW GUARANTEED MINIMUM PRIMARY INSURANCE AMOUNT WHERE ELIGIBILITY ARISES DURING TRANSITIONAL PERIOD.

(a) IN GENERAL.—Section 215(a) of the Social Security Act (42 U.S.C. 415(a)) is amended—

(1) in paragraph (4)(B)—

(A) by inserting "(with or without the application of paragraph (8))" after "would be made"; and

(B) in clause (i), by striking "1984" and inserting "1989"; and

(2) by adding at the end the following:

"(8)(A) In the case of an individual described in paragraph (4)(B) (subject to subparagraphs (F) and (G) of this paragraph), the amount of the individual's primary insurance amount as computed or recomputed under paragraph (1) shall be deemed equal to the sum of—

"(i) such amount, and

"(ii) the applicable transitional increase amount (if any).

"(B) For purposes of subparagraph (A)(ii), the term 'applicable transitional increase amount' means, in the case of any individual, the product derived by multiplying—

"(i) the excess under former law, by

"(ii) the applicable percentage in relation to the year in which the individual becomes eligible for old-age insurance benefits, as determined by the following table:

<b>"If the individual becomes eligible for such benefits in:</b>	<b>The applicable percentage is:</b>
1979 .....	55 percent
1980 .....	45 percent
1981 .....	35 percent
1982 .....	32 percent
1983 .....	25 percent
1984 .....	20 percent
1985 .....	16 percent
1986 .....	10 percent
1987 .....	3 percent
1988 .....	5 percent.

"(C) For purposes of subparagraph (B), the term 'excess under former law' means, in the case of any individual, the excess of—

"(i) the applicable former law primary insurance amount, over

"(ii) the amount which would be such individual's primary insurance amount if computed or recomputed under this section without regard to this paragraph and paragraphs (4), (5), and (6).

"(D) For purposes of subparagraph (C)(i), the term 'applicable former law primary insurance amount' means, in the case of any individual, the amount which would be such individual's primary insurance amount if it were—

"(i) computed or recomputed (pursuant to paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978, or

"(ii) computed or recomputed (pursuant to paragraph (4)(B)(ii)) as provided by subsection (d),

(as applicable) and modified as provided by subparagraph (E).

"(E) In determining the amount which would be an individual's primary insurance amount as provided in subparagraph (D)—

"(i) subsection (b)(4) shall not apply;

"(ii) section 215(b) as in effect in December 1978 shall apply, except that section 215(b)(2)(C) (as then in effect) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 61, plus the 3 calendar years after such period for which the total of such individual's wages and self-employment income is the largest; and

"(iii) subdivision (I) in the last sentence of paragraph (4) shall be applied as though the words 'without regard to any increases in that table' in such subdivision read 'including any increases in that table'.

"(F) This paragraph shall apply in the case of any individual only if such application results in a primary insurance amount for such individual that is greater than it would be if computed or recomputed under paragraph (4)(B) without regard to this paragraph.

"(G)(i) This paragraph shall apply in the case of any individual subject to any timely election to receive lump sum payments under this subparagraph.

"(ii) A written election to receive lump sum payments under this subparagraph, in lieu of the application of this paragraph to the computation of the primary insurance amount of an individual described in paragraph (4)(B), may be filed with the Commissioner of Social Security in such form and manner as shall be prescribed in regulations of the Commissioner. Any such election may be filed by such individual or, in the event of such individual's death before any such election is filed by such individual, by any other beneficiary entitled to benefits under section 202 on the basis of such individual's wages and self-employment income. Any such election filed after December 31, 2003, shall be null and void and of no effect.

"(iii) Upon receipt by the Commissioner of a timely election filed by the individual described in paragraph (4)(B) in accordance with clause (ii)—

"(I) the Commissioner shall certify receipt of such election to the Secretary of the Treasury, and the Secretary of the Treasury, after receipt of such certification, shall pay such individual, from amounts in the Federal Old-Age and Survivors Insurance Trust Fund, a total amount equal to \$5,000, in 4 annual lump sum installments of \$1,250, the first of which shall be made during fiscal year 2004 not later than July 1, 2004, and

"(II) subparagraph (A) shall not apply in determining such individual's primary insurance amount.

"(iv) Upon receipt by the Commissioner as of December 31, 2003, of a timely election filed in accordance with clause (ii) by at least one beneficiary entitled to benefits on the basis of the wages and self-employment income of a deceased individual described in paragraph (4)(B), if such deceased individual has filed no timely election in accordance with clause (ii)—

"(I) the Commissioner shall certify receipt of all such elections received as of such date to the Secretary of the Treasury, and the Secretary of the Treasury, after receipt of such certification, shall pay each beneficiary filing such a timely election, from amounts in the Federal Old-Age and Survivors Insurance Trust Fund, a total amount equal to \$5,000 (or, in the case of 2 or more such beneficiaries, such amount distributed evenly among such beneficiaries), in 4 equal annual lump sum installments, the first of which shall be made during fiscal year 2004 not later than July 1, 2004, and

"(II) solely for purposes of determining the amount of such beneficiary's benefits, subparagraph (A) shall be deemed not to apply in determining the deceased individual's primary insurance amount."

(b) EFFECTIVE DATE AND RELATED RULES.—

(1) APPLICABILITY OF AMENDMENTS.—

(A) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall be effective as though they had been included or reflected in section 201 of the Social Security Amendments of 1977.

(B) APPLICABILITY.—No monthly benefit or primary insurance amount under title II of the Social Security Act shall be increased by reason of such amendments for any month before July 2004.

(2) RECOMPUTATION TO REFLECT BENEFIT INCREASES.—Notwithstanding section 215(f)(1) of the Social Security Act, the Commissioner of Social Security shall recompute the primary insurance amount so as to take into account the amendments made by this Act in any case in which—

(A) an individual is entitled to monthly insurance benefits under title II of such Act for June 2004; and

(B) such benefits are based on a primary insurance amount computed—

(i) under section 215 of such Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(ii) under section 215 of such Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977).

By Ms. LANDRIEU (for herself, Mr. BAYH, Mr. KERRY, Mrs. CLINTON, and Mr. DASCHLE):

S. 1419. A bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care; to the Committee on Finance.

Ms. LANDRIEU. Madam President, I send a bill to the desk and ask for its appropriate referral. I send this bill to the desk on behalf of myself, the Senator from Indiana, Senator BAYH, Senator KERRY, and Senator CLINTON.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Ms. LANDRIEU. Madam President, I appreciate the Democratic leader's generosity, to give some of his time for the introduction of this very important bill. I thank the Senator from South Dakota.

This particular measure is called the Foster Mentoring Act of 2003. I have spoken many times on the floor about the issue of foster care and adoption, and our efforts as a Congress to try to keep our families intact and to provide the economic systems in the country, as well as the social systems from the Federal, State, and local level, to try to help support our families in a way that will get them through crises that all families experience.

It would be our goal as a nation to see that every child born in a family gets to stay within that family and is loved and nurtured within that family unit, either the immediate family or extended family. But when family ties break down beyond the ability to repair them even with the best efforts made by the churches and synagogues and mosques and faith-based organizations as well as the Government, then we have to create a system out-of-home care, or foster care.

We have done that. We have created a system, but we have to fix a system that is now broken and in great need of repair. Many of us have been working diligently over the past few years to do that. Some great progress has been made.

Until the system can be reformed in its entirety, there are some things we can do now, we can do immediately. Passing this Foster Mentoring Act is one of these things. It would provide a \$15 million grant to States to provide foster care mentoring programs, provides \$4 million for a public awareness campaign for the need for mentors for the over 500,000 children who are in foster care in the United States today, and it would provide, most significantly, up to \$20,000 for loan forgiveness for anyone who would mentor a foster care child.

You ask me have we done this before? Yes, in California, represented by a list of advocates I will submit, Children Uniting Nations is the lead nonprofit organization organizing this effort. Under the direction of Governor Gray Davis and his wife, Sharon, they have been a successful pilot for this kind of program in the United States.

This bill attempts to take what is working in California and expand it nationally and provide foster care mentoring opportunities to children in foster care.

I ask unanimous consent, because my time is short, to have printed in the RECORD a letter from the former majority leader, Dick Armey, who supports this initiative and really encourages the Congress to take a serious look.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RICHARD K. ARMEY,  
FORMER MAJORITY LEADER,  
*Washington, DC, July 16, 2003.*

Hon. MARY LANDRIEU,  
*Hart Senate Office Building,  
Washington, DC.*

DEAR SENATOR LANDRIEU: I understand you are introducing legislation designed to promote mentoring for foster children. I am writing to applaud your effort and objective. Based on my own experience, mentoring works.

My own experience with mentoring convinces me that it affords an opportunity for learning and encouragement to children that is all too often not otherwise available. For the past ten years I have sponsored a program, which we called, Tools for Tomorrow in which we arranged scholarships and mentors fifteen deserving children. I have seen first hand how they blossomed through the experience and I have enjoyed the special relationship between the children and their mentors. Mentoring works in the lives of the children.

In addition to applauding your active leadership and efforts with respect to mentoring for foster children I also want to commend Daphna Ziman, and Children Using Nations for their support and activities in the private sector. Daphna Ziman, Chairperson of Children Uniting Nations, is a recognized leader who gives much of herself in the tireless pursuit of helping foster children. Her efforts and other private sector initiatives play a critical role in advancing this important cause.

With kind regards,

DICK ARMEY.

Ms. LANDRIEU. I urge my colleagues to take this issue, as I know they will, quite seriously, to do what we can now to provide the hundreds of thousands of children who are looking for mentorship and stability the benefit of this act and, as quickly as we can, take it up in the Senate. Of course, we urge our leadership to do so.

Finally, I thank Senator DASCHLE for giving me the minutes before his amendment to offer this important legislation.

I yield any time remaining.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I complement the distinguished Senator from Louisiana for her bill and her leadership on the issue of mentoring.

She knows a great deal about foster care. I am grateful to her for the commitment she had made to the issue.

Recent statistics have shown that 45 percent of those children who are in foster care are less likely to begin using drugs; 59 percent do better academically; 73 percent set and attain a higher life achievement goal. So there is a lot to be said for fostering. I believe the Foster Care Mentoring Act that she has now just introduced is meritorious and certainly deserves our support.

I ask to be a cosponsor.

Ms. LANDRIEU. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. CRAIG:

S. 1420. A bill to establish terms and conditions for use of certain Federal land by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such land; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I am pleased to introduce today the Outfitter Policy Act of 2003.

This legislation is very similar to legislation I introduced in past Congresses. As that legislation did, this bill would put into law many of the management practices by which Federal land management agencies have successfully managed the outfitter and guide industry on National Forests, National Parks and other Federal lands over many decades.

The bill recognizes that many Americans want and seek out the skills and experience of commercial outfitters and guides to help them enjoy a safe and pleasant journey.

The Outfitter Policy Act's primary purpose is to ensure accessibility to public lands by all segments of the population and maintain the availability of quality recreation services to the public. While protecting access for many outdoor enthusiasts who possess the skills to enjoy recreating on public lands without assistance, this Act insures that outfitters and guides across the Nation can continue to provide opportunities for outdoor recreation for the many families and groups who would otherwise find the backcountry inaccessible.

Previous hearings and discussions on prior versions of this legislation helped to refine the bill I am introducing today. This process provided the intended opportunity for discussion. As well as it allowed for the examination of the historical practices that have offered consistent, reliable outfitter services to the public.

Congress has twice addressed this issue with respect to the National Park System permits—originally establishing standards for Park Service administration of guide/outfitter permits on their lands in 1965 and amending that system in 1998. Therefore, it is appropriate to set similar legislative standards for other public land systems

such as Forest Service and Bureau of Land Management lands. However, these and other land management agencies are now without Congressional guidance, and instead rules, permit terms and conditions and other intricacies are often left to local agency personnel. The Outfitter Policy Act would alleviate the discord involved in land management permitting, providing consistent guidance on the administration of guide/outfitter permits for the other federal land management agencies.

The Outfitter Policy Act provides the basic terms and conditions necessary to sustain the substantial investment often needed to provide the level of service demanded by the public. However, the bill provides the agencies ample flexibility to adjust use, conditions, and permit terms. All of which must be consistent with agency management plans and policies for resource conservation. The Outfitter Policy Act strives to provide a stable, consistent regulatory climate which encourages qualified entrants to the guide/outfitting business, while giving the agencies and operators clear directions.

The Outfitter Policy Act is a measure that will facilitate access to public lands by the outfitted public, while providing incentives to outfitters to provide the high quality services over time. It is necessary to ensure that members of the public who need and rely on guides and outfitters for recreational access to public lands will continue to receive safe, quality services.

Unfortunately, this legislation has not passed in its current form. So I will be working with my colleagues, Senators BINGAMAN and WYDEN, to capture these concepts and draft a bill that will pass our committee.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1420

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Outfitter Policy Act of 2003".

#### SEC. 2. PURPOSE.

The purpose of this Act is to authorize the Secretary of Agriculture and the Secretary of the Interior to facilitate the use and enjoyment of recreational and educational opportunities on Federal land by establishing a program for the permitting of providers of outfitted activities that—

(1) recognizes that outfitted activities constitute an important component of meeting the recreational and educational objectives of resource and land management;

(2) is based on developing an effective relationship between the Federal agency and the outfitters that facilitates an administrative framework and regulatory environment that makes it possible for outfitters to engage in, and invest in, a successful business venture that provides for recreational use of Federal land by the segment of the public that needs

or wants the services of outfitters and guides; and

(3) ensures that the United States receives fair value for use of Federal land.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) ALLOCATION OF USE.—

(A) IN GENERAL.—The term "allocation of use" means a method or measurement of use that—

(i) is granted by the Secretary to an authorized outfitter for the purpose of facilitating the occupancy and use of Federal land by an outfitted visitor;

(ii) takes the form of—

(I) an amount or type of commercial outfitted activity resulting from an apportionment of the total recreation capacity of a resource area; or

(II) in the case of a resource area for which recreation capacity has not been apportioned, a type of commercial outfitted activity conducted in a manner that is not inconsistent with or incompatible with an approved resource management plan; and

(iii) is calibrated in terms of amount of use, type of use, or location of a commercial outfitted activity, including user days or portions of user days, seasons or other periods of operation, launch dates, assigned camps, hunt, gun, or fish days, or other formulations of the type or amount of authorized activity.

(B) INCLUSION.—The term "allocation of use" includes the designation of a geographic area, zone, or district in which a limited number of authorized outfitters are authorized to operate.

(2) AUTHORIZED OUTFITTER.—The term "authorized outfitter" means a person or entity that conducts a commercial outfitted activity on Federal land under an outfitter authorization.

(3) COMMERCIAL OUTFITTERED ACTIVITY.—The term "commercial outfitted activity" means an activity—

(A) conducted for a member of the public in an outdoor environment on Federal land, such as—

(i) outfitting;

(ii) guiding;

(iii) supervision;

(iv) education;

(v) interpretation;

(vi) skills training;

(vii) assistance; or

(viii) the dropping off or picking up of visitors, supplies, or equipment;

(B) conducted under the direction of compensated individuals; and

(C) for which an outfitted visitor is required to pay more than shared expenses (including payment to an authorized outfitter that is a nonprofit organization).

(4) FEDERAL AGENCY.—The term "Federal agency" means—

(A) the Forest Service;

(B) the Bureau of Land Management;

(C) the United States Fish and Wildlife Service; or

(D) the Bureau of Reclamation.

(5) FEDERAL LAND.—

(A) IN GENERAL.—The term "Federal land" means all land and interests in land administered by a Federal agency.

(B) EXCLUSION.—The term "Federal land" does not include—

(i) land held in trust by the United States for the benefit of an Indian tribe or individual; or

(ii) land held by an Indian tribe or individual subject to a restriction by the United States against alienation.

(6) OUTFITTER AUTHORIZATION.—The term "outfitter authorization" means—

(A) an outfitter permit;

(B) a temporary outfitter authorization; or

(C) any other authorization to use and occupy Federal land under this Act.

(7) RESOURCE AREA.—The term "resource area" means a management unit that is described by or contained within the boundaries of—

(A) a national forest;

(B) an area of public land;

(C) a wildlife refuge;

(D) a congressionally designated area;

(E) a hunting zone or district; or

(F) any other Federal planning unit (including an area in which outfitted activities are regulated by more than 1 Federal agency).

(8) SECRETARY.—The term "Secretary" means—

(A) with respect to Federal land administered by the Forest Service, the Secretary of Agriculture;

(B) with respect to Federal land administered by the Bureau of Land Management, the United States Fish and Wildlife Service, or the Bureau of Reclamation, the Secretary of the Interior.

#### SEC. 4. OUTFITTER AUTHORIZATIONS.

(a) IN GENERAL.—

(1) PROHIBITION.—No person or entity, except an authorized outfitter, shall conduct a commercial outfitted activity on Federal land.

(2) SPECIAL RULE FOR ALASKA.—With respect to a commercial outfitted activity conducted in the State of Alaska, the Secretary shall not establish or impose a limitation on access by an authorized outfitter that is inconsistent with the access ensured under subsections (a) and (b) of section 1110 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3170).

(b) TERMS AND CONDITIONS.—An outfitter authorization shall specify—

(1) the rights and privileges of the authorized outfitter and the Secretary; and

(2) other terms and conditions of the authorization.

(c) CRITERIA FOR ISSUING AN OUTFITTER PERMIT.—The Secretary shall establish criteria for the issuance of an outfitter permit that—

(1) recognize skilled, experienced, and financially capable persons or entities with knowledge of the resource area;

(2) consider the safety of, and the quality recreational experience, educational opportunities, and resources available to, the outfitted visitor; and

(3) recognize and provide a range of public services.

(d) ISSUANCE OF OUTFITTER PERMIT.—

(1) IN GENERAL.—The Secretary may issue an outfitter permit under this Act if—

(A) the commercial outfitted activity to be authorized is not inconsistent with an approved resource management plan applicable to the resource area in which the commercial outfitted activity is to be conducted; and

(B) the authorized outfitter meets the criteria established under subsection (c).

(2) USE OF COMPETITIVE PROCESS.—Except as otherwise provided by this Act, the Secretary shall use a competitive process to select an authorized outfitter if the Secretary determines that there is a competitive interest in the commercial outfitted activity to be conducted.

(e) PROVISIONS OF OUTFITTER PERMITS.—

(1) IN GENERAL.—An outfitter permit shall provide for—

(A) the health and welfare of the public;

(B) conservation of resources;

(C) a return to the United States through the fees authorized under section 5;

(D)(i) a term of 10 years; or

(ii) a term of less than 10 years if—

(I) foreseeable amendments in resource management plans would create conditions

that, less than 10 years after the date of issuance of the permit, would materially affect, and necessitate changes in the terms and conditions of, a permit; and

(I) the Secretary and the authorized outfitter agree to the reduced permit term;

(E) a probationary period of 2 years if the authorized outfitter is a new authorized outfitter;

(F) the obligation of an authorized outfitter to defend and indemnify the United States under section 6;

(G) a base allocation of outfitter use, and, if appropriate, a temporary allocation of use;

(H) a plan to conduct performance evaluations under section 8;

(I) a means to modify, on the initiative of the Federal agency or on the request of the authorized outfitter, an outfitter permit to reflect material changes in terms and conditions specified in the outfitter permit;

(J) notice of a right of appeal and judicial review; and

(K) such other terms and conditions as the Secretary may require.

(2) **EXTENSIONS.**—The Secretary may issue not more than 3 1-year extensions of an outfitter permit, unless the Secretary determines that extraordinary circumstances warrant additional extensions.

(f) **TEMPORARY OUTFITTER AUTHORIZATIONS.**—

(1) **IN GENERAL.**—The Secretary may issue a temporary outfitter authorization for the purpose of conducting a commercial outfitted activity on a limited basis.

(2) **TERM.**—A temporary outfitter authorization shall have a term of not more than 2 years.

(3) **REISSUANCE OR RENEWAL.**—A temporary outfitter authorization may be reissued or renewed at the discretion of the Secretary.

#### **SEC. 5. FEES.**

(a) **AMOUNT OF FEE.**—

(1) **IN GENERAL.**—In determining the amount of a fee, the Secretary shall—

(A) use consistent methodologies; and

(B) take into consideration—

(i) the financial obligations of the outfitter under the outfitter permit;

(ii) the provision of a reasonable opportunity to engage in a successful business;

(iii) the fair value of the use and occupancy granted by the outfitter authorization; and

(iv) other fees charged to the general public, such as entrance fees.

(2) **REQUIREMENTS.**—The amount of the fee—

(A)(i) shall be expressed as—

(I) a simple charge per day of actual use; or

(II) an annual or seasonal flat fee; or

(ii) if calculated as a percentage of revenue—

(I) shall be determined based on adjusted gross receipts; and

(II) shall include a minimum fee;

(B) shall be subordinate to the objectives of—

(i) conserving resources;

(ii) protecting the health and welfare of the public;

(iii) providing reliable and consistent performance in conducting outfitted activities; and

(iv) providing quality service to the public; and

(C) shall be required to be paid on a reasonable schedule during the operating season.

(3) **ACTUAL USE.**—For the purpose of calculating a fee based on actual use, the Secretary shall—

(A) consider multiple outfitted activities conducted in 1 day with separate charges as 1 actual use day; and

(B) consider an activity conducted across agency jurisdictions over the course of 1 day as 1 actual use day.

(4) **ADJUSTED GROSS RECEIPTS.**—For the purpose of paragraph (2)(A)(ii), the Secretary shall—

(A) take into consideration revenue from the gross receipts of the authorized outfitter from commercial outfitted activities conducted on Federal land; and

(B) exclude from consideration any revenue that is derived from—

(i) fees paid by the authorized outfitter to any unit of Federal, State, or local government for—

(I) hunting or fishing licenses;

(II) entrance or recreation fees; or

(iii) other purposes (other than commercial outfitted activities conducted on Federal land);

(ii) a sale of assets used in the operations of the authorized outfitter; or

(iii) activities conducted on non-Federal land.

(5) **FEES FOR SUBSTANTIALLY SIMILAR SERVICES IN A SPECIFIC GEOGRAPHIC AREA.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), if more than 1 outfitter permit is issued to conduct the same or similar commercial outfitted activities in the same resource area, the Secretary shall establish an identical fee for all such outfitter permits.

(B) **EXCEPTION.**—The terms and conditions of an existing outfitter permit shall not be subject to modification or open to renegotiation by the Secretary because of the issuance of a new outfitter permit in the same resource area.

(6) **ADJUSTMENT OF FEES.**—The amount of a fee—

(A) shall be determined and made effective as of the date of the outfitter permit; and

(B) may be modified to reflect—

(i) changes in outfitted activities relating to fees based on actual use;

(ii) extraordinary unanticipated changes affecting operating conditions, such as natural disasters, economic conditions, or other material adverse changes from the terms and conditions specified in the outfitter permit;

(iii) changes affecting operating or economic conditions determined by other governing entities, such as the availability of State fish or game licenses;

(iv) the imposition of new or increased fees assessed under other law; or

(v) authorized adjustments made to an allocation of use.

(b) **OTHER FEES AND COSTS.**—

(1) **IN GENERAL.**—In establishing fees other than the fees authorized under this Act that may directly or indirectly affect authorized outfitters, the Secretary shall—

(A) ensure that the fees do no materially and adversely effect—

(i) the ability of authorized outfitters to provide quality services at reasonable rates; and

(ii) the opportunity of authorized outfitters to engage in a successful business venture; and

(B)(i) consider the cumulative impact of fees levied under this Act, any cost recovery requirements, and State and local taxes and fees on authorized outfitters; and

(ii) adjust the fees as appropriate;

(C) to the extent practicable, consolidate the fees into 1 predictable fee.

(2) **PROCESSING FEES AND COSTS.**—Fees for processing applications for outfitter permits or monitoring compliance with permits terms and conditions shall not seek to recover costs of agency activities that benefit broadly the general public, relate directly to agency statutory duties, or are not directly related to or required for processing of applications or monitoring of an authorization.

(3) **NOTICE.**—A change in the manner in which a fee charged under paragraph (1) or (2) is determined shall be valid only if—

(A) the Secretary provides written notice to authorized outfitters affected by the change; or

(B) the authorized outfitter agrees to the change.

#### **SEC. 6. LIABILITY AND INDEMNIFICATION.**

(a) **GENERAL.**—An authorized outfitter shall pay the United States for all injury, loss, damage, and costs arising from negligence, gross negligence, or willful and wanton disregard for persons or property associated with the authorized outfitter's conduct of a commercial outfitted activity under an outfitter authorization.

(b) **INDEMNIFICATION.**—An authorized outfitter shall defend and indemnify the United States for all injury, loss, damage, and costs the United States may incur as a result of judgments, claims, or losses arising from negligence, gross negligence, or willful and wanton disregard for persons or property associated with the authorized outfitter's conduct of a commercial outfitted activity under an outfitter authorization.

(c) **ENVIRONMENTAL AND OTHER LIABILITY.**—Subsections (a) and (b) shall not be interpreted to limit any liability for, or prevent the United States from taking any action to address, injury, loss, damages, or costs associated with environmental contamination, injury to natural resources, or other cause of action that arises under other law, including the Resource Conservation Recovery Act (7 U.S.C. 1010, et seq.), the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 19 9601, et seq.), and Clean Water Act (33 U.S.C. 1251, et seq.), in connection with the authorized outfitter's use and occupancy of Federal lands, or to diminish any independent obligation of the authorized outfitter to indemnify the United States with respect to the same.

(d) **EXCEPTION.**—An authorized outfitter shall have no obligation to pay, defend, or indemnify the United States under subsections (a) and (b) for any injury, loss, damage, or costs for which the United States is solely responsible.

(e) **FINDING OF COGNIZABLE CLAIM.**—

(1) **ACTIONS REQUIRED BEFORE PRESENTING CLAIM.**—Before presenting any claim to an authorized outfitter for injury, loss, damage, or costs incurred by the United States pursuant to subsection (a) or (b), the Secretary shall—

(A) submit to the authorized outfitter a preliminary finding that the claim is cognizable; and

(B) provide the authorized outfitter with an opportunity to comment before submitting the final finding to the authorized outfitter.

(2) **ADMINISTRATIVE CLAIMS.**—Nothing in this section is intended to preclude the United States from pursuing its claims administratively, without first obtaining a judicial determination of liability.

(f) **ASSUMPTION OF RISK AND WAIVERS OF LIABILITY.**—

(1) **GENERAL REQUIREMENTS.**—An authorized outfitter may enter into agreements with outfitted visitors for assumption of risk and waiver of liability for negligence in connection with inherently dangerous outfitted activities, if—

(A) the waiver of liability also runs in favor of the United States and its agents, employees, or contractors;

(B) the waiver of liability adequately covers the risks of loss to the United States associated with the authorized outfitter's activities on Federal lands;

(C) the waiver of liability does not abrogate, limit, or in any manner affect the authorized outfitter's obligation to indemnify the United States under this section; and

(D) the waiver of liability does not affect the ability of the United States to recover as

an additional insured under any insurance policy obtained by an authorized outfitter in connection with a commercial outfitted activity.

(2) **PRIOR WRITTEN APPROVAL REQUIRED.**—No waiver of liability may be used by an authorized outfitter without prior written approval of the Federal agency. The Federal agency has the discretion to deny requests for the use of waivers of liability for any reason if deemed not in the best interests of the United States.

(3) **STANDARDIZATION.**—Waivers of liability used by authorized outfitters and insurance policies obtained by authorized outfitters in connection with a commercial outfitted activity shall be standardized to the greatest extent possible. Authorized outfitters, the insurance industry, and the Federal agencies shall work together to achieve this goal.

#### SEC. 7. ALLOCATIONS OF USE.

(a) **IN GENERAL.**—In a manner that is not inconsistent with or incompatible with an approved resource management plan applicable to the resource area in which a commercial outfitted activity occurs, the Secretary—

(1) shall provide a base allocation of outfitter use to an authorized outfitter under an outfitter permit; and

(2) may provide a base allocation of use to an authorized outfitter under a temporary outfitter permit.

(b) **WAIVER OF ALLOCATION.**—

(1) **IN GENERAL.**—At the request of an authorized outfitter, the Secretary may waive any obligation of the authorized outfitter to use all or part of the amount of allocation of use provided under the outfitter permit, if the request is made in sufficient time to allow the Secretary to temporarily reallocate the unused portion of the allocation of use in that season or calendar year.

(2) **RECLAIMING OF ALLOCATION OF USE.**—Unless the Secretary has reallocated the unused portion of an allocation of use in accordance with paragraph (1), the authorized outfitter may reclaim any part of the unused portion in that season or calendar year.

(3) **NO FEE OBLIGATION.**—An outfitter permit fee may not be charged for any amount of allocation of use subject to a waiver under paragraph (1).

(c) **ADJUSTMENT TO ALLOCATION OF USE.**—The Secretary—

(1) may adjust a base allocation of use to reflect—

(A) a material change arising from approval of an amendment or revision in the resource management plan for the area of operation; or

(B) requirements arising under other law; and

(2) shall provide an authorized outfitter with documentation supporting the basis for any adjustment in the base allocation of outfitter use, including new terms and conditions that result from the adjustment.

(d) **RENEWALS, TRANSFERS, AND EXTENSIONS.**—Except as provided in subsection (c), on renewal, transfer, or extension of an outfitter permit, the same base allocation of use shall be included in the terms and conditions of the outfitter permit.

(e) **TEMPORARY ALLOCATION OF USE.**—

(1) **IN GENERAL.**—A temporary allocation of use may be provided to an authorized outfitter at the discretion of the Secretary for a period not to exceed 2 years beyond the base allocation.

(2) **TRANSFERS AND EXTENSIONS.**—A temporary allocation of use may be transferred or extended at the discretion of the Secretary.

#### SEC. 8. EVALUATION OF PERFORMANCE.

(a) **EVALUATION SYSTEM.**—The Secretary shall develop a performance evaluation system that—

(1) ensures the continued availability of safe and dependable commercial outfitted activities for the public; and

(2) provides for the suspension or revocation of any outfitter permit if an outfitter fails to meet the required standards.

(b) **EVALUATION CRITERIA.**—Criteria used by the Secretary to evaluate the performance of an authorized outfitter shall—

(1) be objective, measurable, and attainable; and

(2) include, as determined to be appropriate by the Secretary—

(A) standards generally applicable to all commercial outfitted activities; and

(B) standards specific to a resource area or an individual outfitter operation.

(c) **REQUIREMENTS.**—In evaluating the level of performance of an authorized outfitter, the Secretary shall—

(1) appropriately account for factors beyond the control of the authorized outfitter;

(2) ensure that the effect of any performance deficiency reflected by the performance rating is proportionate to the severity of the deficiency, including any harm that may have resulted from the deficiency;

(3) schedule evaluations to ensure the authorized outfitter is present, or represented, at inspections of operations or facilities and inspections, which inspections shall be limited to the operations and facilities of the authorized outfitter located on Federal land; and

(4) provide written notice of any conduct or condition that, if not corrected, might lead to a performance evaluation of marginal or unsatisfactory, which notice shall include an explanation of needed corrections and provide a reasonable period in which the corrections may be made without penalty.

(d) **LEVELS OF PERFORMANCE.**—The Secretary shall define 3 levels of performance, as follows:

(1) Good, indicating a level of performance that fulfills the terms and conditions of the outfitter permit.

(2) Marginal, indicating a level of performance that, if not corrected, will result in an unsatisfactory level of performance.

(3) Unsatisfactory, indicating a level of performance that fails to fulfill the terms and conditions of the outfitter permit.

(e) **MARGINAL PERFORMANCE.**—If an authorized outfitter's annual performance is determined to be marginal—

(1) the level of performance shall be changed to a "good" performance for the year if the authorized outfitter completes the corrections within the time specified; or

(2) the level of performance shall be determined to be unsatisfactory for the year if the authorized outfitter fails to complete the corrections within the time specified.

(f) **DETERMINATION OF ELIGIBILITY FOR RENEWAL.**—

(1) **IN GENERAL.**—The results of all annual performance evaluations of an authorized outfitter shall be reviewed by the Secretary in the year preceding the year in which the outfitter permit expires to determine whether the authorized outfitter's overall performance during the term has met the requirements for renewal under section 9.

(2) **FAILURE TO EVALUATE.**—If, in any year of the term of an outfitter permit, the Secretary fails to evaluate the performance of the authorized outfitter by the date that is 90 days after the conclusion of the authorized outfitter's operating season, the performance of the authorized outfitter in that year shall be considered to have been good.

(3) **NOTICE.**—Not later than 90 days after the end of the year preceding the year in which an outfitter permit expires, the Secretary shall provide the authorized outfitter with the cumulative results of performance

evaluations conducted under this subsection during the term of the outfitter permit.

(4) **UNSATISFACTORY PERFORMANCE IN FINAL YEAR.**—If an authorized outfitter receives an unsatisfactory performance rating under subsection (d) in the final year of the term of an outfitter permit, the review and determination of eligibility for renewal of the outfitter permit under paragraph (1) shall be revised to reflect that result.

#### SEC. 9. RENEWAL, REVOCATION, OR SUSPENSION OF OUTFITTER PERMITS.

(a) **RENEWAL AT EXPIRATION OF TERM.**—

(1) **IN GENERAL.**—On expiration of the term of an outfitter authorization, the Secretary shall renew the authorization in accordance with paragraph (2).

(2) **CRITERIA FOR DETERMINATION.**—The Secretary shall renew an outfitter authorization under paragraph (1) at the end of the term of an outfitter authorization and subject to the requirements of this Act if the Secretary determines that the authorized outfitter has received not more than 1 unsatisfactory annual performance rating under section 8 during the term of the outfitter permit.

(3) **TEMPORARY OUTFITTER AUTHORIZATION.**—If the Secretary determines that the authorized outfitter has received an unsatisfactory annual performance rating in the last year of the 10-year term of the outfitter permit—

(A) the Secretary may issue to the authorized outfitter a temporary outfitter permit; and

(B) if during the 2-year period of the temporary outfitter permit issued under subparagraph (A), the authorized outfitter receives a good performance rating, the Secretary shall renew the outfitter permit for an 8-year term.

(b) **SUSPENSION OR REVOCATION.**—An outfitter permit may be suspended or revoked if the Secretary determines that—

(1)(A) the authorized outfitter has failed to correct a condition for which the authorized outfitter received notice under section 8(c)(4); and

(B) the condition is considered by the Secretary to be significant with respect to the terms and conditions of the outfitter permit;

(2) the authorized outfitter—

(A) is in arrears in the payment of fees under section 5; and—

(B)(i) has not entered into a payment plan with the Federal agency; or

(ii) has not brought a civil action or brought an administrative claim under section 12; and

(3) the authorized outfitter's conduct demonstrates willful disregard for—

(A) the health and welfare of outfitted visitors or other visitors; or

(B) the conservation of resources on which the commercial outfitted activities are conducted.

#### SEC. 10. TRANSFERABILITY OF OUTFITTER PERMITS.

(a) **IN GENERAL.**—An outfitter permit shall not be transferred (including assigned or otherwise conveyed or pledged) by the authorized outfitter without prior written notification to, and approval by, the Secretary.

(b) **APPROVAL.**—

(1) **IN GENERAL.**—The Secretary shall approve a transfer of an outfitter permit unless the Secretary determines that the transferee is—

(A) not qualified; or

(B) unable to satisfy the terms and conditions of the outfitter permit.

(2) **QUALIFIED TRANSFEREES.**—Subject to section 4(d)(1), the Secretary shall approve a transfer of an outfitter permit—

(A) to a purchaser of the operation of the authorized outfitter;

(B) at the request of the authorized outfitter, to an assignee, partner, or stockholder

or other owner of an interest in the operation of the authorized outfitter; or

(C) on the death of the authorized outfitter, to an heir or assign.

(c) **TRANSFER TERMS.**—The terms and conditions of any outfitter permit shall not be subject to modification or open to renegotiation by the Secretary because of a transfer described in subsection (a) unless—

(1) the modification is agreed to by, or at the request of, the transferee;

(2) the terms and conditions of the outfitter permit that is proposed to be transferred have become inconsistent or incompatible with an approved resource management plan for the resource area; or

(3) the transferee proposes activities outside the scope of the existing authorization.

(d) **CONSIDERATION PERIOD.**—

(1) **TIMEFRAME FOR REVIEW.**—Subject to paragraph (2), if the Secretary fails to act on the transfer of an outfitter permit within 180 days after the date of receipt of an application containing the information required with respect to the transfer, the transfer shall be deemed to have been approved.

(2) **EXTENSION.**—The Secretary may extend the period for consideration of an application under paragraph (1) if—

(A) the Secretary and the authorized outfitter applying for transfer of an outfitter permit agree to extend the period; or

(B)(i) the transferee requests a modification of the terms and conditions of the outfitter permit; and

(ii) the modification requires environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) **CONTINUANCE OF OUTFITTER PERMIT.**—If the transfer of an outfitter permit is not approved by the Secretary or if the transfer is not subsequently made, the outfitter permit shall remain in effect.

#### **SEC. 11. RECORDKEEPING REQUIREMENTS.**

(a) **IN GENERAL.**—An authorized outfitter shall keep such reasonable records as the Secretary may require to enable the Secretary to determine that all the terms of the outfitter permit are being met.

(b) **OBLIGATIONS OF THE SECRETARY AND AUTHORIZED OUTFITTER.**—The recordkeeping requirements established by the Secretary shall incorporate simplified procedures that do not impose an undue burden on an authorized outfitter.

(c) **ACCESS TO RECORDS.**—The Secretary, or an authorized representative of the Secretary, shall for audit and performance evaluation purposes have access to and the right to examine for the 5-year period beginning on the termination date of an outfitter permit any records of the authorized outfitter relating to each outfitter authorization held by the authorized outfitter during the business year.

#### **SEC. 12. APPEALS AND JUDICIAL REVIEW.**

(a) **APPEALS PROCEDURE.**—The Secretary shall by regulation—

(1) grant an authorized outfitter full access to administrative remedies; and

(2) establish an expedited procedure for consideration of appeals of Federal agency decisions to—

(A) deny, suspend, fail to renew, or revoke an outfitter permit; or

(B) change a principal allocation of outfitter use.

(b) **JUDICIAL REVIEW.**—An authorized outfitter that is adversely affected by a final decision of the Secretary under this Act may commence a civil action in United States district court.

#### **SEC. 13. COLLECTION AND USE OF FUNDS.**

Except as provided in section 7 of the Act of April 24, 1950 (commonly known as the "Granger-Thye Act") (16 U.S.C. 580d), funds

deposited under this Act shall be available to the Secretary without further appropriation and shall remain available for—

- (1) administration of the outfitter permit;
- (2) interpretive programs;
- (3) trail maintenance; or
- (4) any other activity to carry out this Act.

#### **SEC. 14. REGULATIONS.**

Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall promulgate regulations for permitting commercial outfitted activities on Federal land.

#### **SEC. 15. RELATIONSHIP TO OTHER LAW.**

(a) **NATIONAL PARK OMNIBUS MANAGEMENT ACT OF 1998.**—Nothing in this Act supersedes or otherwise affects any provision of title IV of the National Park Omnibus Management Act of 1998 (16 U.S.C. 5951 et seq.).

(b) **ANILCA.**—Nothing in this Act modifies, amends, or otherwise affects section 1307 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197).

(c) **STATE OUTFITTER LICENSING LAW.**—This Act does not preempt any outfitter or guide licensing law (including any regulation) of any State or territory.

#### **SEC. 16. TRANSITION PROVISIONS.**

(a) **OUTFITTERS WITH SATISFACTORY RATING.**—An outfitter that holds a permit, contract, or other authorization to conduct commercial outfitted activities (or an extension of such a permit, contract, or other authorization) in effect on the date of enactment of this Act shall be entitled, on expiration of the authorization, to the issuance of a new outfitter permit under this Act if the performance of the outfitter under the permit, contract, or other authorization was determined to be good or was the equivalent of good, satisfactory, or acceptable under a rating system in use before the date of enactment of this Act.

(b) **OUTFITTERS WITH NO RATINGS.**—For the purpose of subsection (a), if no recent performance evaluations exist to determine the outfitter's performance, the performance shall be deemed to be good.

(c) **EFFECT OF ISSUANCE OF OUTFITTER PERMIT.**—The issuance of an outfitter permit under subsection (a) shall not adversely affect any right or obligation that existed under the permit, contract, or other authorization (or an extension of the permit, contract, or other authorization) on the date of enactment of this Act.

#### **SEC. 17. EFFECT.**

(a) **IN GENERAL.**—Nothing in this Act limits or restricts any right, title, or interest of the United States in or to any land or resource or establishes a property right in favor of the authorized outfitter.

(b) **EFFECT ON NON-OUTFITTED RECREATIONAL OR ACADEMIC USE.**—Nothing in this Act—

(1) establishes any preference for outfitted or non-outfitted use;

(2) diminishes or impairs—

(A) any existing use or occupancy of Federal land by the public (including the non-outfitted public); or

(B) any right or privilege of use, occupancy, or access to Federal land by the public (including the non-outfitted public);

(3) diminishes the existing authority of Federal agencies to—

(A) establish levels of use; and

(B) allocate such use among or between the outfitted and non-outfitted public; and

(4) applies to outdoor activity and services on Federal land for or directly related to academic credit and provided by a bona fide and accredited academic institution.

By Ms. MURKOWSKI:

S. 1421. A bill to authorize the subdivision and dedication of restricted

land owned by Alaska Natives; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, the Native Allotment Subdivision Act is the only answer to resolving the question of whether Native landowners have the authority to subdivide their own property. Individual Alaska Native landowners cannot subdivide their land to transfer it either by gift or by sale. There is no current authority that allows them to dedicate rights-of-way across their land for public access or for utility purposes. The lack of explicit statutory authorization calls into question the legal validity of lands that have been subdivided and lands that likely could be subdivided in the future. This legislation will provide the necessary authorization to the Department of the Interior and Native landowners to dedicate their land for public purposes as they see fit. No other legislation or policy exists that addresses such a unique problem. Essentially this bill allows Alaska Natives to own lands with the same obligations and privileges of other private landowners in Alaska. However, the bill creates no obligation of Alaska Natives to do anything with their allotments unless they elect to sell or dispose of their lands.

Over the past twenty years, hundreds of allotments have been subdivided, either for the purpose of commercial sale or to facilitate transfers of land to the landowners' children or other relatives. Problems arose when the Borough placed a utility line across frontage property of one of the Native landowners. Frontage property the Borough thought it had legal access to; there was no reason to consider potential conflicts existed. The new owner questioned the validity and legality of the Borough placing any kind of feature across his land. In addition, grantees of existing easements, such as utility easements for local electric cooperatives, have felt threatened with trespass action for easements previously granted in good faith.

The question clearly goes to whether a trespass had been committed by local government. In fact in this case, subdivision plats were filed, signed and approved as evidenced by the appropriate signatures of the Bureau of Indian Affairs, the landowner and by the local governing authority. The official plats show streets laid out to provide frontage to the lots created by the subdivision, describing 10 foot utility rights-of-way on each lot. It is recognized that compliance with State law is required when landowners choose to subdivide their land. Given a choice, it would be advantageous to the Alaska Native landowners if the same opportunity was available to them. There is no applicable Federal law on the subject of subdivision of Native allotment lands. State law requires that access to subdivided lots be assured, typically by dedication of public rights-of-way, which will be shown on the subdivision plat.



In an effort to overcome this problem, a collaborative process was undertaken by the affected Boroughs and the State of Alaska to validate such dedications by separately conveying either easements or title to roads and utility easements to State and local governments. This was so burdensome, time-consuming and complex, the process had to be abandoned. The platting authorities and the State were so disenchanted by this process, they had no choice but to turn to Congress for relief. The common sense approach to solving this dilemma, is to afford the same considerations to Native landowners that others have. Native landowners must have the same authority to subdivide and dedicate their land as anyone else has the right to do, according to existing State law.

By speeding up and simplifying the allotment subdivision process, the Native landowner, the Federal, State and local governments would all benefit. This legislation permits a Native landowner at his own option to abide by and receive the benefits of subdividing his land in accordance with State or local law. The uncertainty of whether officially filed allotment subdivision plats are valid would be removed. This legislation will also serve to authorize future allotment subdivisions, ratify and confirm the legal validity of those already created.

The Native landowner will not be deprived of any of the protections of restricted land status. This legislation will confirm the restricted Native landowners' right to act in his own best interest. The issue they face is a choice between being able to subdivide their land, obtain a much greater total compensation for sales of subdivided lots or continue to be unable to subdivide their land. Their only option will be to sell one large tract that will almost always bring a substantially smaller total amount of compensation.

The legislation I am introducing today is an issue that applies to Alaska only. The solution affects the Native Allotment Act of 1906, the same legislation which provides for Alaska Natives to receive title to up to 160 acres of public land.

This legislation is non-controversial and is beneficial to all affected parties and to the general public. The State of Alaska and local governments have urged such legislation. The Department of the Interior is supportive.

And, finally, passage of this legislation will be in the best interest of the Native allotment owners and the general public. I urge my colleagues to support this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1421

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Native Allotment Subdivision Act".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) Alaska Natives that own land subject to Federal restrictions against alienation and taxation need to be able to subdivide the restricted land for the purposes of—

(A) transferring by gift, sale, or devise separate interests in the land; or

(B) severing, by mutual consent, tenancies in common;

(2) for the benefit of the Alaska Native restricted landowners, any persons to which the restricted land is transferred, and the public in general, the Alaska Native restricted landowners should be authorized to dedicate—

(A) rights-of-way for public access;

(B) easements for utility installation, use, and maintenance; and

(C) additional land for other public purposes;

(3)(A) the lack of an explicit authorization by Congress with respect to the subdivision and dedication of Alaska Native land that is subject to Federal restrictions has called into question whether such subdivision and dedication is legal; and

(B) this legal uncertainty has been detrimental to the rights of Alaska Native restricted landowners to use or dispose of the restricted land in the same manner as other landowners are able to use and dispose of land;

(4) extending to Alaska Native restricted land owners the same authority that other landowners have to subdivide and dedicate land should be accomplished without depriving the Alaska Native restricted landowners of any of the protections associated with restricted land status;

(5) confirming the right and authority of Alaska Native restricted land owners, subject to the approval of the Secretary of the Interior, to subdivide their land and to dedicate their interests in the restricted land, should be accomplished without affecting the laws relating to whether tribal governments or the State of Alaska (including political subdivisions of the State) have authority to regulate land use;

(6) Alaska Native restricted land owners, persons to which the restricted land is transferred, State and local platting authorities, and members of the general public have formed expectations in reliance on past subdivisions and dedications; and

(7) those expectations should be fulfilled by ratifying the validity under Federal law of the subdivisions and dedications.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) RESTRICTED LAND.—The term "restricted land" means land in the State that is subject to Federal restrictions against alienation and taxation.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) STATE.—The term "State" means the State of Alaska.

#### SEC. 4. SUBDIVISION AND DEDICATION OF ALASKA NATIVE RESTRICTED LAND.

(a) IN GENERAL.—An Alaska Native owner of restricted land may, subject to the approval of the Secretary—

(1) subdivide the restricted land in accordance with the laws of the—

(A) State; or

(B) applicable local platting authority; and

(2) execute a certificate of ownership and dedication with respect to the restricted land subdivided under paragraph (1) with the same effect under State law as if the restricted land subdivided and dedicated were held by unrestricted fee simple title.

(b) RATIFICATION OF PRIOR SUBDIVISIONS AND DEDICATIONS.—Any subdivision or dedication of restricted land executed before the date of enactment this Act that has been approved by the Secretary and by the applicable State or local platting authority, as appropriate, is ratified and confirmed by Congress as of the date on which the Secretary approved the subdivision or dedication.

#### SEC. 5. EFFECT.

(a) IN GENERAL.—Nothing in this Act validates or invalidates any assertion—

(1) that a Federally recognized Alaska Native tribe has or lacks jurisdiction with respect to any land in the State;

(2) that Indian country (as defined in section 1151 of title 18, United States Code) exists or does not exist in the State; or

(3) that, except as provided in section 4, the State or any political subdivision of the State does or does not have the authority to regulate the use of any individually owned restricted land.

(b) EFFECT ON STATUS OF LAND NOT DEDICATED.—Except in a case in which a specific interest in restricted land is dedicated under section 4(a)(2), nothing in this Act terminates, diminishes, or otherwise affects the continued existence and applicability of Federal restrictions against alienation and taxation on restricted land or interests in restricted land (including restricted land subdivided under section 4(a)(1)).

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 197—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN STATE OF COLORADO V. CARRIE ANN HOPPE, ANDREW M. BENNETT, CHRISTOPHER J. FRIEDMAN, ANDREW JONATHAN TIRMAN, CAROLYN ELIZABETH BNINSKI, MELISSA NOELLE ROSSMAN, RACHAEL ESTHER KAPLAN

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 197

Whereas, in the cases of State of Colorado v. Carrie Ann Hoppes best friend, Andrew M. Bennett, Christopher J. Friedman, Andrew Jonathan Tirman, Carolyn Elizabeth Bninski, Melissa Noelle Rossman, Rachael Esther Kaplan, pending in the Arapahoe County Court, Colorado, testimony and documents have been requested from Arapahoe County Court, Colorado, testimony and documents have been requested from employees in the Office of Senator Wayne Allard:

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently

with the privileges of the Senate: Now, therefore, be it *Resolved* that employees of Senator Allard's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the cases of *State of Colorado v. Carrie Ann Hoppes*, *Andrew M. Bennett*, *Christopher J. Friedman*, *Andrew Jonathan Tirman*, *Carolyn Elizabeth Bninski*, *Melissa Noelle Rossman*, *Rachael Esther Kaplan*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent employees of Senator Allard's office in connection with the testimony and document production authorized in section one of this resolution.

#### SENATE RESOLUTION 196—DESIGNATING DECEMBER 14, 2003, AS "NATIONAL CHILDREN'S MEMORIAL DAY"

Mr. REID (for himself, Mr. KENNEDY, Mr. VOINOVICH, Mrs. CLINTON, Ms. CANTWELL, Mr. BREAUX, Mrs. MURRAY, Mr. HOLLINGS, Mr. INOUE, Mr. LEVIN, Mr. BINGAMAN, Mr. ALLEN, Ms. MURKOWSKI, Ms. COLLINS, Mr. AKAKA, Mrs. HUTCHISON, and Mrs. LINCOLN) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 196

Whereas approximately 80,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from a myriad of causes;

Whereas the death of an infant, child, teenager, or young adult of a family is considered to be one of the greatest tragedies that a parent or family will ever endure during a lifetime;

Whereas a supportive environment, empathy, and understanding are considered critical factors in the healing process of a family that is coping with and recovering from the loss of a loved one: Now, therefore, be it

*Resolved*,

#### SECTION 1. DESIGNATION OF NATIONAL CHILDREN'S MEMORIAL DAY.

The Senate—

(1) designates December 14, 2003, as "National Children's Memorial Day"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe "National Children's Memorial Day" with appropriate ceremonies and activities in remembrance of the many infants, children, teenagers, and young adults of families in the United States who have died.

Mr. REID. Mr. President, I rise today to submit a resolution that would designate December 14, 2003 as "National Children's Memorial Day." This resolution would set aside this day to remember all the children who die in the United States each year.

The Senate has passed a similar resolution for each of the past five years in order to ensure that families who have lost children know that their loved ones—and their grief—are not forgotten. Whether a child's death is sudden or anticipated, from illness or from accident, the grief of the families who loved them is unimaginable for all who have not shared their tragedy.

Today, we reaffirm that a child's death is a loss not only for one family, but for all of us, and we grieve to-

gether. By passing this resolution and sharing a day of remembrance, we can remind families who have lost children that they are not alone.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1267. Mr. ALLARD (for himself, Mr. NELSON, of Florida, Mr. CAMPBELL, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1268. Mr. BINGAMAN (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. BYRD, Mr. LEAHY, Mr. LEVIN, Mr. ROCKEFELLER, Mr. CORZINE, Mr. DURBIN, and Mr. CARPER) proposed an amendment to the bill H.R. 2658, *supra*.

SA 1269. Mr. DASCHLE (for himself, Mr. GRAHAM, of South Carolina, Mr. LEAHY, Mr. DEWINE, Mr. MILLER, Mr. SMITH, Mrs. CLINTON, and Ms. MIKULSKI) proposed an amendment to the bill H.R. 2658, *supra*.

SA 1270. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2658, *supra*.

SA 1271. Mrs. BOXER (for herself, Ms. LANDRIEU, and Mrs. MURRAY) proposed an amendment to the bill H.R. 2658, *supra*.

SA 1272. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 2658, *supra*; which was ordered to lie on the table.

SA 1273. Mr. KENNEDY (for himself and Mr. LEAHY) proposed an amendment to the bill H.R. 2658, *supra*.

SA 1274. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2658, *supra*; which was ordered to lie on the table.

SA 1275. Mr. CORZINE proposed an amendment to the bill H.R. 2658, *supra*.

#### TEXT OF AMENDMENTS

SA 1267. Mr. ALLARD (for himself, Mr. NELSON of Florida, Mr. CAMPBELL, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. Of the total amount appropriated by title III under the heading "MISSILE PROCUREMENT, AIR FORCE", up to \$10,000,000 may be used for assured access to space in addition to the amount available under such heading for the Evolved Expendable Launch Vehicle.

SA 1268. Mr. BINGAMAN (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. BYRD, Mr. LEAHY, Mr. LEVIN, Mr. ROCKEFELLER, Mr. CORZINE, Mr. DURBIN, and Mr. CARPER) proposed an amendment to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Insert after section 8123 the following:

SEC. 8124. (a) REPORT ON INDIVIDUALS DETAINED AS ENEMY COMBATANTS BY UNITED STATES GOVERNMENT.—Not later than 90 days

after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the individuals being detained by the United States Government as enemy combatants.

(b) ELEMENTS.—Except as provided in subsection (c), the report under subsection (a) shall set forth the following:

(1) The name and nationality of each individual being detained by the United States Government as an enemy combatant.

(2) With respect to each such individual—

(A) a statement whether the United States Government intends to charge, repatriate, or release such individual; or

(B) if a determination has not been made whether to charge, repatriate, or release such individual, a description of the procedures (including the schedule) to be employed by the United States Government to determine whether to charge, repatriate, or release such individual.

(3) With respect to each such individual who the United States Government intends to charge, the schedule for the filing of the charges and the trial of such individual.

(c) CLASSIFICATION OF CERTAIN INDIVIDUALS.—(1) If the Secretary determines that the inclusion of an individual in the report under subsection (a) would harm the national security of the United States, the Secretary may include such individual in a classified annex.

(2) Determinations under paragraph (1) shall be made on a case-by-case basis.

(3) If the Secretary determines to omit one or more individuals from the unclassified form of the report, the Secretary shall include in the report an explanation of the omission of the individual or individuals.

(d) FORM.—The report under subsection (a) shall, to the maximum extent practicable, be submitted in unclassified form, but may include a classified annex.

(e) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committees on Armed Services and the Judiciary and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The term "enemy combatant" means—

(A) an individual held under the authority of the Military Order of November 13, 2001 (Volume 66, No. 222, pages 57833–57836 of the Federal Register); or

(B) an individual designated as an enemy combatant and held under other legal authority.

SA 1269. Mr. DASCHLE (for himself, Mr. GRAHAM of South Carolina, Mr. LEAHY, Mr. DEWINE, Mr. MILLER, Mr. SMITH, Mrs. CLINTON, and Ms. MIKULSKI) proposed an amendment to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

SEC. . IN RECOGNITION OF THE NATIONAL GUARD AND RESERVE'S CONTRIBUTIONS TO OUR NATIONAL SECURITY AND EXPRESSING STRONG SUPPORT FOR THE SENATE'S PREVIOUS BIPARTISAN VOTE TO PROVIDE THESE FORCES ACCESS TO TRICARE.

(a) FINDINGS.—The Senate makes the following findings:

(1) Forces in the U.S. National Guard and Reserve have made and continue to make essential and effective contributions to Operations Iraqi Freedom and other ongoing military operations;

(2) More than 200,000 reserve personnel from the Army, Navy, Air Force, Marine Corps, and Coast Guard are currently serving their nation on active status;

(3) Our dependence on the National Guard and Reserve has increased dramatically over the course of the past decade. Annual duty days have grown from about 1 million in the late 1980s to more than 12 million in every year since 1996;

(4) While our dependence on the reserves has increased in the post-Cold War era, their basic pay and benefits structure has remained largely unchanged;

(5) Offering TRICARE to reservists for an affordable monthly premium enhances our national security by improving their medical readiness when called to duty, streamlining and accelerating the mobilization process, and enhancing our military's ability to recruit and retain qualified personnel to reserve duty;

(6) The Congressional Budget Office, the official, non-partisan scorekeeper of all congressional legislation, has estimated the cost of this proposal at just over one-tenth of one percent of the Administration's FY 2004 defense budget request;

(7) On May 20, 2003, a strong majority of Senate Democrats and Republicans joined together and voted 85-10 for an amendment to the FY 2004 Defense Authorization bill to provide reserve personnel and their families access to TRICARE regardless of their current deployment status; and

(8) The Appropriations Committee indicated in its report accompanying the FY 2004 Defense Appropriations bill that it supports this proposal.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that:

(1) The National Guard and Reserve play a critical and increasingly demanding role in protecting our national security, and

(2) The Senate supports the Appropriations Committee position as articulated in the report accompanying the FY 2004 Defense Appropriations bill and affirms its support for providing Guard and Reserve personnel access to TRICARE.

**SA 1270.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. None of the funds appropriated by this Act may be obligated or expended for any of the following programs, projects, and activities:

- (1) The canola oil fuel cell initiative.
- (2) Shakespeare in America military communities.
- (3) Control of brown tree snakes.
- (4) The Academy for Closing and Avoiding Achievement Gaps.
- (5) Hangar renovation at the former Griffis Air Force Base, New York.

**SA 1271.** Mrs. BOXER (for herself, Ms. LANDRIEU, and Mrs. MURRAY) proposed an amendment to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, add the following:

#### SEC. .REPORTS ON IRAQ.

Not less than once every 30 days, the Secretary of Defense shall submit a report to

the congressional defense committees, the House International Relations Committee, and Senate Foreign Relations Committee that contains the following information:

(a) Total and monthly costs of U.S. operations in Iraq.

(b) Number of U.S. military personnel serving in Iraq and the immediate region.

(c) Total and monthly contributions made by foreign governments and international organizations in support of U.S. operations in Iraq.

(d) Number of foreign military personnel serving in support of U.S. operations in Iraq.

(e) Defense articles and services offered by foreign governments and international organizations in support of U.S. operations in Iraq.

(f) Total number of U.S. casualties as a result of U.S. operations in Iraq by date and cause.

(g) All contracts in excess of \$10 million entered into by the U.S. government for the reconstruction of Iraq.

**SA 1272.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress an unclassified report (with a classified annex, if necessary) on the United States strategy regarding activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq that are undertaken as a result of Operation Iraqi Freedom. The report shall include the following:

(1) A schedule for the President to seek NATO participation, as an organization of many nations, in ongoing operations in Iraq.

(2) A schedule for the President to seek and obtain the approval of a resolution of the United Nations Security Council authorizing a multinational civil and security force (including substantial participation by armed forces of NATO member countries under unified command and control) to guarantee the stability, democratization, and reconstruction of Iraq.

(3) An estimate of the number of Armed Forces personnel that are needed in Iraq to guarantee the stability and reconstruction of Iraq, separately stated for each of the Armed Forces and, within each of the Armed Forces, for each of the components.

(4) An estimate of the number of personnel of armed forces of foreign countries that are needed in Iraq to guarantee the stability and reconstruction of Iraq.

**SA 1273.** Mr. KENNEDY (for himself and Mr. LEAHY) proposed an amendment to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress an unclassified report (with a classified annex, if necessary) on the United States strategy regarding activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq that are undertaken as a result of Operation Iraqi Freedom. The report shall include the following:

(1) A schedule for the President to seek NATO participation, as an organization of many nations, in ongoing operations in Iraq.

(2) A schedule for the President to seek and obtain the approval of a resolution of the United Nations Security Council authorizing a multinational civil and security force (including substantial participation by armed forces of NATO member countries under unified command and control) to guarantee the stability, democratization, and reconstruction of Iraq.

(3) An estimate of the number of Armed Forces personnel that are needed in Iraq to guarantee the stability and reconstruction of Iraq, separately stated for each of the Armed Forces and, within each of the Armed Forces, for each of the components.

(4) An estimate of the number of personnel of armed forces of foreign countries that are needed in Iraq to guarantee the stability and reconstruction of Iraq.

(5) A statement and justification from the President for his actions in seeking or failing to seek NATO participation or a UN Security Council resolution.

**SA 1274.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

Insert after section 8123 the following:

SEC. 8124. (a) FINDINGS.—The Senate makes the following findings:

(1) Naval Station Roosevelt Roads, Puerto Rico, is a strategically important forward base for United States military forces operating in the Caribbean Ocean and South America.

(2) Naval Station Roosevelt Roads contributes significantly to the operations of a series of ranges and locations in a 240,000 square mile area of the eastern Caribbean Ocean that supports Navy readiness exercises, proficiency assessments, and research, development, test, and evaluation activities.

(3) The 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is intended to ensure the objective and careful consideration of the current and future military value of military installations, ranges, activities, and facilities in determining the infrastructure requirements of the Armed Forces.

(b) SENSE OF SENATE.—It is the sense of the Senate that the resolution of the disposition of Naval Station Roosevelt Roads, Puerto Rico, should occur during the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990.

**SA 1275.** Mr. CORZINE proposed an amendment to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place insert the following:

TITLE —NATIONAL COMMISSION ON THE DEVELOPMENT AND USE OF INTELLIGENCE RELATED TO IRAQ

#### SEC. 101. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on the Development and Use of Intelligence Related to Iraq.

**SEC. 102. FINDINGS.**

(1) The Congress underscores its commitment to and support for ongoing Congressional reviews regarding the collection and analysis of intelligence to Iraq.

**SEC. 103. PURPOSE.**

The purposes of the Commission are to—

(1) examine and report upon the role of policymakers in the development of intelligence related to Iraq and Operation Iraqi Freedom;

(2) examine and report upon the use of intelligence related to Iraq and Operation Iraqi Freedom;

(3) build upon the reviews of intelligence related to Iraq and Operation Iraqi Freedom, including those being conducted by the Executive Branch, Congress and other entities; and

(4) investigate and publicly report to the President and Congress on its findings, conclusions, and recommendations.

**SEC. 104. COMPOSITION OF THE COMMISSION.**

(a) MEMBERS.—The Commission shall be composed of 12 members of whom—

(1) 3 members shall be appointed by the Speaker of the House of Representatives;

(2) 3 members shall be appointed by the minority leader of the Senate; and

(3) 3 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as intelligence, governmental service, the armed services, law enforcement, and foreign affairs.

(2) INITIAL MEETING.—Once six or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

**SEC. 105. FUNCTIONS OF THE COMMISSION.**

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates the development and use of intelligence related to Iraq and Operation Iraqi Freedom; and

(B) shall include an investigation of intelligence related to whether Iraq:

(i) possessed chemical, biological and nuclear weapons, and the locations of those weapons;

(ii) had links to Al Qaeda;

(iii) attempted to acquire uranium in Africa, and if so, when;

(iv) attempted to procure aluminum tubes for the development of nuclear weapons;

(v) possessed mobile laboratories for the production of weapons of mass destruction;

(vi) possessed delivery systems for weapons of mass destruction; and

(vii) any other matters that bear upon the imminence of the threat to the national security of the United States and its allies.

(2) submit to the President and Congress such report as is required by this title con-

taining such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(A) FORM OF REPORT.—Each report prepared under this section shall be submitted in unclassified form, but may contain a classified annex.

**SEC. 106. POWERS OF THE COMMISSION.**

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission, or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, cables, E-mails, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENA.—

(A) ISSUANCE.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the Vice Chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CLOSED MEETINGS.—

(1) IN GENERAL.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) ADDITIONAL AUTHORITY.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENT AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

**SEC. 107. STAFF OF THE COMMISSION.**

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson and vice chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

**SEC. 108. COMPENSATION AND TRAVEL EXPENSES.**

(a) COMPENSATION.—Each member of the Commission may be compensated at not to

exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

**SEC. 109. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.**

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearance in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

**SEC. 110. REPORT OF THE COMMISSION; TERMINATION.**

(a) REPORT.—Not later than nine months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress a report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the report is submitted under subsection (a).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

**SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Commission to carry out this title \$5,000,000, to remain available until expended.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 16, 2003, at 10 a.m. to conduct an oversight hearing on the Semi-Annual Monetary Policy Report of the Federal Reserve.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 16, 2003, at 9:30 a.m. on Marine Mammal Protection Act in SR-428A.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 16, 2003, at 9:30 a.m. on Internet Tax Moratorium in SR-253.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 16, 2003, at 10 a.m., in Room 106 of the Dirksen Senate Office Building to conduct a joint hearing with the House Committee on Resources, Office of Native American and Insular Affairs, on S. 556, a bill to Reauthorize the Indian Health Care Improvement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 16, 2003, at 10 a.m., in Room 106 of the Dirksen Senate Office Building to conduct a business meeting on pending Committee matters, to be followed immediately by a joint hearing with the House Committee on Resources, Office of Native American and Insular Affairs, on S. 556, a bill to Reauthorize the Indian Health Care Improvement Act of H.R. 2440, the Indian Health Care Improvement Act Amendments of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 16, 2003 at 2:30 p.m., to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS**

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer rights be authorized to meet to conduct a hearing on "Hospital Group Purchasing: Has the Market Become More Open to Competition?" on Wednesday, July 16, 2003, at 11:00 a.m., in Room 226 of the Dirksen Senate Office Building.

Panel I: Mr. Mark McKenna, Chairman, Novation, Irving, TX; Mr. Richard Norling, Chairman and CEO, Premier, San Diego, CA; Mr. Said Hilal, Chairman and CEO, Applied Medical Resources Corporation, Rancho Santa Margarita, CA; Mr. Thomas Brown, Executive Vice President, BIOTRONIK, Inc., Lake Oswego, OR; Mr. Gary Heiman, President and CEO, Standard Textile, Cincinnati, OH; Mr. Lynn James Everard, Hospital Purchasing Consultant, Coconut Creek, FL; Ms. Elizabeth Weatherman, Managing Director, Warburg Pincus, LLC, New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA**

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Wednesday, July 16, 2003 at 10:00 a.m., for a hearing entitled "Great Lakes Restoration Management: No. Direction, Unknown Progress."

The PRESIDING OFFICER. Without objection, it is so ordered.

**PRIVILEGE OF THE FLOOR**

Mr. KENNEDY. Mr. President, I ask unanimous consent that a fellow in my office, Ava Shinigal, be allowed on the floor during consideration of the Defense Appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

**NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION ACT OF 2003**

Mr. ALEXANDER. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 141, S. 555.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 555) to establish the Native American Health and Wellness Foundation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Native American Health and Wellness Foundation Act of 2003".

**SEC. 2. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.**

(a) IN GENERAL.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following:

**"TITLE VIII—NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION**

**"SEC. 801. DEFINITIONS.**

"In this title:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Foundation.

"(2) COMMITTEE.—The term 'Committee' means the Committee for the Establishment of Native American Health and Wellness Foundation established under section 802(f).

"[(2)] (3) FOUNDATION.—The term 'Foundation' means the Native American Health and Wellness Foundation established under section 802.

"[(3)] (4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

“(4) (5) SERVICE.—The term ‘Service’ means the Indian Health Service of the Department of Health and Human Services.

**“SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.**

“(a) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, the Native American Health and Wellness Foundation.

“(b) PERPETUAL EXISTENCE.—The Foundation shall have perpetual existence.

“(c) NATURE OF CORPORATION.—The Foundation—

“(1) shall be a charitable and nonprofit federally chartered corporation; and

“(2) shall not be an agency or instrumentality of the United States.

“(d) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.

“(e) PURPOSES *Duties*.—The [purposes of the] Foundation shall [be—]

“(1) [to] encourage, accept, and administer private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, the mission of the Service;

“(2) [to] undertake and conduct such other activities as will further the health and wellness activities and opportunities of Native Americans; and

“(3) [to] participate with and assist Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the health and wellness activities and opportunities of Native Americans.

“(f) COMMITTEE FOR THE ESTABLISHMENT OF NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.—

“(1) IN GENERAL.—The Secretary shall establish the Committee for the Establishment of Native American Health and Wellness Foundation to assist the Secretary in establishing the Foundation.

“(2) DUTIES.—Not later than 180 days after the date of enactment of this section, the Committee shall—

“(A) carry out such activities as are necessary to incorporate the Foundation under the laws of the District of Columbia, including acting as incorporators of the Foundation;

“(B) ensure that the Foundation qualifies for and maintains the status required to carry out this section, until the Board is established;

“(C) establish the constitution and initial bylaws of the Foundation;

“(D) provide for the initial operation of the Foundation, including providing for temporary or interim quarters, equipment, and staff; and

“(E) appoint the initial members of the Board in accordance with the constitution and initial bylaws of the Foundation.

“(f) (g) BOARD OF DIRECTORS.—

“(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

“(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

“(3) SELECTION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

“(B) REQUIREMENTS.—

“(i) NUMBER OF MEMBERS.—The Board shall have at least 11 members, [2 of whom shall be the Secretary and the Director of the Indian Health Service, who shall serve as non-voting members] who shall have staggered terms.

“(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board—

“(1) shall be appointed by the [Secretary] Committee not later than 180 days after the date on which the Foundation is established; and

“(2) shall have staggered terms [(as determined by the Secretary).]

“(iii) QUALIFICATION.—The members of the Board shall be United States citizens who are knowledgeable or experienced in Native American health care and related matters.

“(C) COMPENSATION.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

“(g) (h) OFFICERS.—

“(1) IN GENERAL.—The officers of the Foundation shall be—

“(A) a secretary, elected from among the members of the Board; and

“(B) any other officers provided for in the constitution and bylaws of the Foundation.

“(2) SECRETARY.—The secretary of the Foundation shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

“(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

“(h) (i) POWERS.—The Foundation—

“(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

“(2) may adopt and alter a corporate seal;

“(3) may enter into contracts;

“(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

“(5) may sue and be sued; and

“(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

“(i) (j) PRINCIPAL OFFICE.—

“(1) IN GENERAL.—The principal office of the Foundation shall be in the District of Columbia.

“(2) ACTIVITIES; OFFICES.—The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

“(j) (k) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

“(k) (l) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

“(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of their authority.

“(2) PERSONAL LIABILITY.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

“(l) (m) RESTRICTIONS.—

“(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed 10 percent of the sum of—

“(A) the amounts transferred to the Foundation under subsection (m) (o) during the preceding fiscal year; and

“(B) donations received from private sources during the preceding fiscal year.

“(2) APPOINTMENT AND HIRING.—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

“(3) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

“(m) TRANSFER OF DONATED FUNDS.—The Secretary may transfer to the Foundation funds held by the Department of Health and Human Services under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.) if the transfer or use of the funds is not prohibited by any term under which the funds were donated.]

“(n) AUDITS.—The Foundation shall comply with section 10101 of title 36, United States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

“(o) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (e)(1) \$500,000 for each fiscal year, as adjusted to reflect changes in the Consumer Price Index for all-urban consumers published by the Department of Labor.

“(2) TRANSFER OF DONATED FUNDS.—The Secretary shall transfer to the Foundation funds held by the Department of Health and Human Services under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.), if the transfer or use of the funds is not prohibited by any term under which the funds were donated.

**“SEC. 803. ADMINISTRATIVE SERVICES AND SUPPORT.**

“(a) PROVISION OF SUPPORT BY SECRETARY.—Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

“(1) may provide personnel, facilities, and other administrative support services to the Foundation;

“(2) may provide funds to reimburse the travel expenses of the members of the Board; and

“(3) shall require and accept reimbursements from the Foundation for—

“(A) services provided under paragraph (1); and

“(B) funds provided under paragraph (2).

“(b) REIMBURSEMENT.—Reimbursements accepted under subsection (a)(3)—

“(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

“(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

“(c) CONTINUATION OF CERTAIN SERVICES.—The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services—

“(1) are available; and

“(2) are provided on reimbursable cost basis.”.

“(b) TECHNICAL AMENDMENTS.—The Indian Self-Determination and Education Assistance Act is amended—

(1) by redesignating title V (as added by section 1302 of the American Indian Education Foundation Act of 2000) (25 U.S.C. 458bbb et seq.) as title VII;

(2) by redesignating sections 501, 502, and 503 (as added by section 1302 of the American Indian Education Foundation Act of 2000) as sections 701, 702, and 703, respectively; and

(3) in subsection (a)(2) of section 702 and paragraph (2) of section 703 (as redesignated by paragraph (2)), by striking “section 501” and inserting “section 701”.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, the bill as amended be read the third time and passed, the motion to



reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 555), as amended, was read the third time and passed, as follows:

S. 555

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Health and Wellness Foundation Act of 2003".

#### SEC. 2. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

(a) IN GENERAL.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following:

##### "TITLE VIII—NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION

##### "SEC. 801. DEFINITIONS.

"In this title:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Foundation.

"(2) COMMITTEE.—The term 'Committee' means the Committee for the Establishment of Native American Health and Wellness Foundation established under section 802(f).

"(3) FOUNDATION.—The term 'Foundation' means the Native American Health and Wellness Foundation established under section 802.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(5) SERVICE.—The term 'Service' means the Indian Health Service of the Department of Health and Human Services.

##### "SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

"(a) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, the Native American Health and Wellness Foundation.

"(b) PERPETUAL EXISTENCE.—The Foundation shall have perpetual existence.

"(c) NATURE OF CORPORATION.—The Foundation—

"(1) shall be a charitable and nonprofit federally chartered corporation; and

"(2) shall not be an agency or instrumentality of the United States.

"(d) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.

"(e) DUTIES.—The Foundation shall—

"(1) encourage, accept, and administer private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, the mission of the Service;

"(2) undertake and conduct such other activities as will further the health and wellness activities and opportunities of Native Americans; and

"(3) participate with and assist Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the health and wellness activities and opportunities of Native Americans.

"(f) COMMITTEE FOR THE ESTABLISHMENT OF NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.—

"(1) IN GENERAL.—The Secretary shall establish the Committee for the Establishment of Native American Health and Wellness

Foundation to assist the Secretary in establishing the Foundation.

"(2) DUTIES.—Not later than 180 days after the date of enactment of this section, the Committee shall—

"(A) carry out such activities as are necessary to incorporate the Foundation under the laws of the District of Columbia, including acting as incorporators of the Foundation;

"(B) ensure that the Foundation qualifies for and maintains the status required to carry out this section, until the Board is established;

"(C) establish the constitution and initial bylaws of the Foundation;

"(D) provide for the initial operation of the Foundation, including providing for temporary or interim quarters, equipment, and staff; and

"(E) appoint the initial members of the Board in accordance with the constitution and initial bylaws of the Foundation.

"(g) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

"(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

"(3) SELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

"(B) REQUIREMENTS.—

"(i) NUMBER OF MEMBERS.—The Board shall have at least 11 members, who shall have staggered terms.

"(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board—

"(I) shall be appointed by the Committee not later than 180 days after the date on which the Foundation is established; and

"(II) shall have staggered terms.

"(iii) QUALIFICATION.—The members of the Board shall be United States citizens who are knowledgeable or experienced in Native American health care and related matters.

"(C) COMPENSATION.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

"(h) OFFICERS.—

"(1) IN GENERAL.—The officers of the Foundation shall be—

"(A) a secretary, elected from among the members of the Board; and

"(B) any other officers provided for in the constitution and bylaws of the Foundation.

"(2) SECRETARY.—The secretary of the Foundation shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

"(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

"(i) POWERS.—The Foundation—

"(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

"(2) may adopt and alter a corporate seal;

"(3) may enter into contracts;

"(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

"(5) may sue and be sued; and

"(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

"(j) PRINCIPAL OFFICE.—

"(1) IN GENERAL.—The principal office of the Foundation shall be in the District of Columbia.

"(2) ACTIVITIES; OFFICES.—The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

"(k) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

"(l) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

"(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of their authority.

"(2) PERSONAL LIABILITY.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

"(m) RESTRICTIONS.—

"(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed 10 percent of the sum of—

"(A) the amounts transferred to the Foundation under subsection (o) during the preceding fiscal year; and

"(B) donations received from private sources during the preceding fiscal year.

"(2) APPOINTMENT AND HIRING.—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

"(3) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

"(n) AUDITS.—The Foundation shall comply with section 10101 of title 36, United States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

"(o) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (e)(1) \$500,000 for each fiscal year, as adjusted to reflect changes in the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(2) TRANSFER OF DONATED FUNDS.—The Secretary shall transfer to the Foundation funds held by the Department of Health and Human Services under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.), if the transfer or use of the funds is not prohibited by any term under which the funds were donated.

##### "SEC. 803. ADMINISTRATIVE SERVICES AND SUPPORT.

"(a) PROVISION OF SUPPORT BY SECRETARY.—Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

"(1) may provide personnel, facilities, and other administrative support services to the Foundation;

"(2) may provide funds to reimburse the travel expenses of the members of the Board; and

"(3) shall require and accept reimbursements from the Foundation for—

"(A) services provided under paragraph (1); and

"(B) funds provided under paragraph (2).

"(b) REIMBURSEMENT.—Reimbursements accepted under subsection (a)(3)—



"(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

"(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

"(c) CONTINUATION OF CERTAIN SERVICES.—The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services—

"(1) are available; and

"(2) are provided on reimbursable cost basis."

(b) TECHNICAL AMENDMENTS.—The Indian Self-Determination and Education Assistance Act is amended—

(1) by redesignating title V (as added by section 1302 of the American Indian Education Foundation Act of 2000) (25 U.S.C. 458bbb et seq.) as title VII;

(2) by redesignating sections 501, 502, and 503 (as added by section 1302 of the American Indian Education Foundation Act of 2000) as sections 701, 702, and 703, respectively; and

(3) in subsection (a)(2) of section 702 and paragraph (2) of section 703 (as redesignated by paragraph (2)), by striking "section 501" and inserting "section 701".

#### ELEVATION OF THE POSITION OF DIRECTOR OF INDIAN HEALTH SERVICE WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. ALEXANDER. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 144, S. 558.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 558) to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 558) was read the third time and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) DEFINITIONS.—In this section:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary for Indian Health appointed under subsection (b)(2)(A).

(2) DEPARTMENT.—The term "Department" means the Department of Health and Human Services.

(3) OFFICE.—The term "Office" means the Office of the Assistant Secretary for Indian Health established by subsection (b)(1).

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department the Office of the Assistant Secretary for Indian Health.

(2) ASSISTANT SECRETARY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Office shall be headed by an Assistant Secretary for Indian Health, to be appointed by the President, by and with the advice and consent of the Senate.

(B) CONTINUED SERVICE BY INCUMBENT.—The individual serving in the position of Director of the Indian Health Service on the day before the date of enactment of this Act may serve as Assistant Secretary at the pleasure of the President after the date of enactment of this Act.

(3) DUTIES.—The position of Assistant Secretary is established to, in a manner consistent with the government-to-government relationship between the United States and Indian tribes—

(A) facilitate advocacy for the development of appropriate Indian health policy; and

(B) promote consultation on matters relating to Indian health.

(c) ASSISTANT SECRETARY FOR INDIAN HEALTH.—In addition to the functions performed as of the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary shall—

(1) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

(2) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

(3) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

(4) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;

(5) coordinate the activities of the Department concerning matters of Indian health; and

(6) perform such other functions as the Secretary may designate.

(d) RATE OF PAY.—

(1) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Health and Human Services (6)," and inserting "Assistant Secretaries of Health and Human Services (7)."

(2) POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended by striking "Director, Indian Health Service, Department of Health and Human Services."

(e) DUTIES OF ASSISTANT SECRETARY FOR INDIAN HEALTH.—Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661) is amended by striking the section heading and all that follows through subsection (a) and inserting the following:

#### "SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service.

"(2) ADMINISTRATION.—The Indian Health Service shall be administered by the Assistant Secretary for Indian Health.

"(3) DUTIES.—In carrying out paragraph (2), the Assistant Secretary shall—

"(A) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

"(B) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

"(C) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

"(D) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility;

"(E) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health; and

"(F) perform such other functions as the Secretary may designate."

(f) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.—The Indian Health Care Improvement Act is amended—

(A) in section 601 (25 U.S.C. 1661)—

(i) in subsection (c), by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health"; and

(ii) in subsection (d)(1), by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health"; and

(B) in section 816(c)(1) (25 U.S.C. 1680f(c)(1)), by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(2) AMENDMENTS TO OTHER PROVISIONS OF LAW.—

(A) Section 3307(b)(1)(C) of the Children's Health Act of 2000 (25 U.S.C. 1671 note; Public Law 106-310) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(B) The Indian Lands Open Dump Cleanup Act of 1994 is amended—

(i) in section 3 (25 U.S.C. 3902)—

(I) by striking paragraph (2);

(II) by redesignating paragraphs (1), (3), (4), (5), and (6) as paragraphs (4), (5), (2), (6), and (1), respectively, and moving those paragraphs so as to appear in numerical order; and

(III) by inserting before paragraph (4) (as redesignated by subclause (II)) the following: "(3) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary for Indian Health."

(ii) in section 5 (25 U.S.C. 3904), by striking the section heading and inserting the following:

#### "SEC. 5. AUTHORITY OF ASSISTANT SECRETARY FOR INDIAN HEALTH."

(iii) in section 6(a) (25 U.S.C. 3905(a)), in the subsection heading, by striking "DIRECTOR" and inserting "ASSISTANT SECRETARY";

(iv) in section 9(a) (25 U.S.C. 3908(a)), in the subsection heading, by striking "DIRECTOR" and inserting "ASSISTANT SECRETARY"; and

(v) by striking "Director" each place it appears and inserting "Assistant Secretary".

(C) Section 5504(d)(2) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note; Public Law 100-297) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(D) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 763(a)(1)) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(E) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33

U.S.C. 1377) are amended by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health".

(F) Section 317M(b) of the Public Health Service Act (42 U.S.C. 247b-14(b)) is amended—

(i) by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health"; and

(ii) in paragraph (2)(A), by striking "the Directors referred to in such paragraph" and inserting "the Director of the Centers for Disease Control and Prevention and the Assistant Secretary for Indian Health".

(G) Section 417C(b) of the Public Health Service Act (42 U.S.C. 285-9(b)) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(H) Section 1452(i) of the Safe Drinking Water Act (42 U.S.C. 300j-12(i)) is amended by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health".

(I) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b-2(d)(1)) is amended in the last sentence by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(J) Section 203(b) of the Michigan Indian Land Claims Settlement Act (Public Law 105-143; 111 Stat. 2666) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(g) REFERENCES.—Any reference to the Director of the Indian Health Service in any other Federal law, Executive order, rule, regulation, or delegation of authority, or in any document of or relating to the Director of the Indian Health Service, shall be deemed to refer to the Assistant Secretary.

#### AMENDING THE HIGHER EDUCATION ACT OF 1965

Mr. ALEXANDER. I ask unanimous consent that the HELP Committee, be discharged from further consideration of S. 570 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 570) to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools.

There being no objection, the Senate proceeded to consider the bill.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 570) was read the third time and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. FOREIGN SCHOOL ELIGIBILITY.

(a) IN GENERAL.—Section 102(a)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)(2)(A)) is amended to read as follows:

"(A) IN GENERAL.—For the purpose of qualifying as an institution under paragraph

(1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 101 (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 101(a)(4)). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of title IV unless—

"(i) in the case of a graduate medical school located outside the United States—

"(I)(aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part B of title IV; and

"(bb) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of title IV; or

"(II) the institution has a clinical training program that was approved by a State as of January 1, 1992; or

"(ii) in the case of a veterinary school located outside the United States that does not meet the requirements of section 101(a)(4), the institution's students complete their clinical training at an approved veterinary school located in the United States."

(b) EFFECTIVE DATE.—This Act and the amendments made by this Act shall be effective as if enacted on October 1, 1998.

#### AUTHORIZING SENATE LEGAL COUNSEL REPRESENTATION

Mr. ALEXANDER. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 197, which was submitted earlier today, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 197) to authorize testimony, document production, and legal representation in State of Colorado v. Carrie Ann Hoppes, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony, documents, and representation in related criminal trespass actions in Arapahoe County Court in the State of Colorado. In these actions, seven defendants have been charged with criminally trespassing on the premises of Senator WAYNE ALLARD's Englewood, CO, office on December 4, 2002. Upon its closing that day, the defendants refused repeated requests to leave Senator ALLARD's office, and, as a result, were arrested. Trials on the charge of trespass are scheduled to be held on or about July 23, 2003. The State has subpoenaed several of the Senator's staff members who witnessed the defend-

ants' conduct. The enclosed resolution would authorize those staff members, and any other employees of Senator ALLARD's office from whom evidence may be required, to testify and produce documents in connection with these actions, with representation from the Senate Legal Counsel.

Mr. ALEXANDER. I ask unanimous consent that the resolution and the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 197) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 197

Whereas, in the cases of State of Colorado v. Carrie Ann Hoppes, Andrew M. Bennett, Christopher J. Friedman, Andrew Jonathan Tirman, Carolyn Elizabeth Bninski, Melissa Noelle Rossman, Rachael Esther Kaplan, pending in the Arapahoe County Court, Colorado, testimony and documents have been requested from employees in the office of Senator Wayne Allard;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved*, that employees of Senator Allard's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the cases of State of Colorado v. Carrie Ann Hoppes, Andrew M. Bennett, Christopher J. Friedman, Andrew Jonathan Tirman, Carolyn Elizabeth Bninski, Melissa Noelle Rossman, Rachael Esther Kaplan, except concerning matters for which a privilege should be asserted.

Sec. 2. The Senate Legal Counsel is authorized to represent employees of Senator Allard's office in connection with the testimony and document production authorized in section one of this resolution.

#### PERMITTING THE USE OF THE ROTUNDA FOR A CEREMONY TO COMMEMORATE THE UNVEILING OF THE STATUE OF SAKAKAWEA

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 236, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 236) permitting the use of the rotunda of the Capitol for a ceremony to commemorate the unveiling of the statue of Sakakawea provided by the State of North Dakota for display in Statuary Hall.

There being no objection, the Senate proceeded to consideration of the concurrent resolution.

Mr. ALEXANDER. I ask unanimous consent that the resolution and the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements regarding the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 236) was agreed to.

The preamble was agreed to.

#### JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE RIGHT HONORABLE TONY BLAIR

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the Right Honorable Tony Blair, Member of Parliament, Prime Minister of the United Kingdom of Great Britain and Northern Ireland, into the House Chamber for the joint meeting tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### APPOINTMENTS

The PRESIDING OFFICER. The chair, on behalf of the President pro tempore, and upon the recommendation of the majority leader, pursuant to 22 U.S.C. 2761, as amended, appoints the Honorable JUDD GREGG of New Hampshire and the Honorable JOHN CORNYN of Texas as delegates of the Senate Delegation to the British-American Interparliamentary Group conference during the 108th Congress.

The Chair, on behalf of the President pro tempore, and upon the recommendation of the Democratic leader, pursuant to Public Law 96-388, as amended by Public Law 97-84 and Public Law 106-292, appoints the following Senators to the United States Holocaust Memorial Council for the 108th Congress:

The Senator from Nevada, Mr. REID;  
The Senator from California, Mrs. BOXER.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Sen-

ate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 287, 288, 289, and 290. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

#### NOMINATIONS

##### INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

John Richard Grimes, of Massachusetts, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2006.

Lisa Genevieve Nason, of Alaska, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 2004.

Georgianna E. Ignace, of Wisconsin, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 2004.

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

Charles W. Grim, of Oklahoma, to be Director of the Indian Health Service, Department of Health and Human Services, for a term of four years.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

#### ORDERS FOR THURSDAY, JULY 17, 2003

Mr. ALEXANDER. Mr. President, on behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m., Thursday, July 17. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 2658, the Department of Defense appropriations bill, as provided in the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SCHEDULE

Mr. ALEXANDER. For the information of all Senators, the leader has asked me to say that tomorrow the

Senate will resume consideration of H.R. 2658, the Department of Defense appropriations bill. Under the previous order, when the Senate resumes debate on the bill, Senator HARKIN will be recognized to speak for up to 25 minutes. Following Senator HARKIN's statement, the Senate will continue the amendment process. We have an order of Democratic amendments locked in, and it is the chairman's intention to begin working through those amendments tomorrow morning. Therefore, Senators should expect rollcall votes to begin in the morning and Senators will be notified when the first vote is scheduled.

It is the hope of the majority leader to complete action on the Department of Defense appropriations bill tomorrow. In order to complete work on this bill tomorrow, Senators should prepare for votes throughout the day and into the evening.

As a reminder, Prime Minister Tony Blair will give an address to both Houses of Congress at 4 p.m. tomorrow. Members should gather in the Senate Chamber in order to proceed to the Hall of the House of Representatives at 3:40 on Thursday afternoon.

#### ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ALEXANDER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:50 p.m., adjourned until Thursday, July 17, 2003, at 9 a.m.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate July 16, 2003:

##### INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

JOHN RICHARD GRIMES, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2006.

LISA GENEVIEVE NASON, OF ALASKA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 18, 2004.

GEORGIANNA E. IGNACE, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 18, 2004.

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHARLES W. GRIM, OF OKLAHOMA, TO BE DIRECTOR OF THE INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOR A TERM OF FOUR YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.